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THE SCOTTISH GREY FRIARS

THE SCOTTISH GREY FRIARS

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BY

WILLIAM MOIR BRYCE

VOL. I.

HISTORY

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ABBREVIATIONS

G. R. H. . . . . *General Register House, Edinburgh.*

MS. Authorities in G. R. H.

Abbrev. Cartar. Feud. Terrar. Ecclesiasticar.	*Abbreviate Feu Charters of Kirk Lands.*
Accounts, Collector General	*Accounts of the Collector General of the Thirds of Benefices.*
Accounts, Sub-Collectors	*Accounts of the Sub-Collectors of Thirds.*
Acts and Decreets Acta Dom. Concil. Acta Dom. Concil. et Sess.	*Judicial Records of Court of Session.*
Books of Assumption	*Assumptions of Thirds of Benefices. See also Vols. in Adv. Lib., and Harleian MSS., B. M.*
Cal. of Chart.	*Calendar of original Charters and other documents preserved in G. R. H.*
King's Patrimony	*Memorandum of the King's Patrimony and of all Thirds of Benefices.*
P. R. of Sasines	*Particular Register of Sasines.*
Prot. Books	*Protocol Books kept by Notaries.*
Reg. Conf. Testaments	*Register of Confirmed Testaments in the respective diocesan (Commissariot) Records.*
Reg. Mag. Sig.	*Register of the Great Seal. See Abstracts as printed.*

Reg. Privy Seal	*Register of the Privy Seal.*
Rentals and Accounts	*Rentals and Accounts of Religious Houses.* (*Portfolio of detached papers.*)
Rentals of Chaplainries	*Rentals of the Chaplainries of the Black Friars, Grey Friars, and other Religious Orders in the Burghs of Dundee, Brechin, Montrose, St. Andrews, Cupar, Perth, Stirling, Ayr, and Irvine.*
Aberdeen Ob. Cal.	*Obituary Calendar of the Observatine Friary, Aberdeen, 1469–1560. Facsimile and Text, infra, II.* 285–386.
A. F.	*Analecta Franciscana sive chronica aliaque varia documenta ad historiam Fratrum Minorum spectantia; Quaracchi; Collegium S. Bonaventurae,* 1885.
A. M.	*Annales Minorum seu trium ordinum a S. Francisco institutorum: editio secunda locupletior et accuratior,* 1731. *Ed. Lucas Wadding, and continuations.*
Archiv für Litteratur	*Archiv für Litteratur und Kirchengeschichte des Mittelalters. Herausgegeben von P. H. Denifle und F. Ehrle,* 1885 *et seq.*
B. C. B.	*MS. Burgh Court Books. See respective Burghs.*
B. F.	*Bullarium Franciscanum, Romanorum Pontificum constitutiones, epistolas, ac diplomata continenstribus ordinibus Minorum, Clarissarum, et Poenitentium a Sancto Francisco institutis concessa; Notis atque indicibus locupletatum studio et labore, Fr. J. H. Sbaraleae. Continuation now in progress, ed. Conrad Eubel. Rome,* 1759–1908.
Bonaventurae Op.	*Doctoris Seraphici, S. Bonaventurae, opera omnia studio PP. Collegii a S. Bonaventura ad plurimos codices MSS. emendata. Ad Claras Aquas,* 1882–1902.
Cocquelines	*Bullarium privilegiorum ac diplomatum Romanorum Pontificum amplissima collectio,* 1739–62. *Ed. Carlo Cocquelines.*
Dirks Servais	*Histoire Littéraire et Bibliographique des Frères Mineurs de l'Observance de St. François en Belgique et dans les Pays-Bas. Anvers.*
Eubel	*Provinciale Ordinis Fratrum Minorum vetustissimum. Ad Claras Aquas,* 1892.
Gonzaga	*De Origine Seraphicae Religionis Franciscanae. Rome, F. Gonzaga,* 1587.
Inquisition Records	*George Buchanan in the Lisbon Inquisition: Records of his Trial, by Guilherme J. C. Henriques. Lisbon,* 1906.

M. F.	*Monumenta Franciscana, a collection of original documents respecting the Franciscan Order in England (Chronicles and Memorials). 2 Vols., ed. J. S. Brewer and Richard Howlett.*
Ob. Chron.	*Chronicle of the Observative Province of Scotland, written by Father John Hay at the request of Francis Gonzaga, Minister General, O.M. Text and translation, infra, II.* 173–94.
Potthast	*Regesta Pontificum Romanorum. Berolini,* 1875.
Prot. Books	*MS. Protocol Books in Charter Room of the respective burghs.*
Reg. P. C.	*Register of the Privy Council of Scotland, as printed.*
Schlager, Beiträge . . .	*Beiträge zur Geschichte der Kölnischen Franziskaner-Ordensprovinz, P. Schlager. Köln,* 1904.
Seraphicae Legislationis, T.O.	*Seraphicae legislationis textus originales jussu Rmi. Pris., Ministri Generalis totius ordinis Fratrum Minorum in lucem editi ad Claras Aquas,* 1897.
Spec. Perf.	*Speculum Perfectionis seu S. Francisci Assisiensis legenda antiquissima,* 1898. *Ed. M. Paul Sabatier.*

Photogravure of Miniature in *La Somme des Vices et des Vertus*, written in 1469 by Friar Jean Hubert for Isabella, daughter of James I. of Scotland and wife of Duke Francis I. of Brittany. Isabella is here represented kneeling in an attitude of prayer, supported behind by St. Francis. Over her robe—on which are impaled the lion of Scotland and the ermine of Brittany—hangs the Franciscan Cordelière, signifying her association with the Order of Penitents or Third Order of St. Francis.

From Original in Bibl. Nat., Paris.

HISTORY

OF THE

SCOTTISH GREY FRIARS:

WITH DOCUMENTS

CHAPTER I

GENERAL HISTORY—THE CONVENTUAL PROVINCE

Arrival of the Franciscans in Scotland—Early foundations—The independence of the Scottish Province—The Friars and the War of Independence—A Franciscan legend in Scotland—Foundation of the Friary at Lanark by Robert the Bruce—His generosity towards the Order—The scholarship of the Scottish Friars—Friar John the Carpenter—James II. and the Friary at Kirkcudbright.

Seven centuries ago, in the chill of an early spring morning, the citizens of Assisi thronged the Piazza di Sancta Maria Maggiore to witness one of the most impressive scenes in the world's history. It was none other than the public ordination of the first Mendicant Friar. Bishop Guido represented the ubiquitous jurisdiction of the Church. Pierre Bernardone, the parent whose horizon was bounded by social aspirations, was intent upon the forisfamiliation of the son who had brought the ridicule of his fellow-townsmen upon him. Francesco Bernardone, the child of nature, personified a transition in psychology that had roused the hatred of his father and provoked the ribald jest or scoff of that Umbrian crowd in its frivolous mood. He did not oppose his father's claim. The voice of the Bishop is heard ordering him to pronounce a formal renunciation of those rights which churchman and layman alike considered essential conditions of life. He withdrew,

and there was a brief dramatic pause before word and action were brought into harmony. Suddenly a naked figure appeared in the crowd, carrying a bundle of clothes in one hand and some money in the other. Then, placing them before the Bishop, Francesco Bernardone severed his connection with family and conventional citizen life; and, as the first friar, silenced the scoffer in the solemnity of his personal ordination. From this naïve espousal with Lady Poverty sprang the Franciscan Order and the reunion of Charity and Religion, which brought anew the soothing influence of Christianity into the lives of the poor, the outcast and the leper. Ere long, the act of charity became the outward badge of the devout mind, and this sacred duty resumed its influence over the heart of the professing Christian.

The Church, which personified the more tender characteristics of human nature during the Dark Ages, had viewed her obligations towards the poor with ever-increasing neglect, until her servants had almost become complete strangers to practical Christianity. Religion had become synonymous with formal celebration of the sacred offices, and had no more than a haphazard relation with suffering humanity. The first note of revolt against this oppressive objectivism was struck in those vague ill-ordered aspirations after poverty that characterised the heresies of the late twelfth and early thirteenth centuries. But where those revivalists, who preached austerity and a return to the primitive church, attacked from the destructive point of view, St. Francis gave free rein to the natural poesy of his temperament in selecting a deserted corner of the vineyard as the scene of his labours, so that he might supplement the work of the clergy. His conversion had proceeded from no abstract reasoning upon the evils that were rampant and paralysed every incipient reform. The chosen disciple of the new subjectivism, but none the less a slave to the Law of Relativity, he instinctively turned to Rome for permission to carry home its religion to men and women whom the official Church was powerless, or cared not, to reach.

Was this revolution or reformation? Innocent III. accorded his apostolic mandate to preach penitence for the remission of sins; and, still incredulous, he left untouched the central principle of asceticism. Thereafter, complete detachment from worldly interests became the sole condition of brotherhood with the mystic number who joyfully quitted the precincts of the papal palace in 1209, bent upon the regeneration of the poor; and the new phase of religious activity entered upon the course of its amazing and irresistible evolution. The Church was revivified by one simple idea that had an economic as well as a spiritual signification. Religion was dragged from the cloister to the market square or the leper settlement, and an ineffaceable distinction was established between the active and the contemplative Christian. But liberalism had long since ceased to be an active principle, and Franciscanism was a direct impeachment of ecclesiastical discipline. Hence, the formal Christian maintained that it was revolution; and, inasmuch as he considered personal or corporate poverty the utopia of madmen, it was inevitable that the reactionary churchman should offer strenuous resistance to the hierarchy in its delicate task of harmonising the new with the old. No such limitation as nationality existed in the Franciscan mind. Its ideal was natural and untrammelled expansion; and, therefore, a grave crisis was imminent in every diocese, if St. Francis—a bewildering and apparently unorthodox personality—preached his crusade throughout a continent. For this reason he was restrained within the limits of his native peninsula by the prudent Cardinal Ugolini of Ostia, and the fulfilment of one of his fondest hopes — the colonisation of France — was entrusted to the poet-friar Pacifico, who left Italy in 1217–1218 at the head of the French mission. Strenuous opposition awaited them in Paris, and that was overcome by the profession of conformity made by their leader in Italy. From Paris their thoughts turned to England, and the mission to Britain was decided upon in the Chapter General held at Assisi in 1224, the last graced by the presence of St. Francis. Friar Agnellus, the first Warden of Paris, was designated its leader, and with him were associated eight other friars, five of whom

were laymen and three English clerics; so that they had not to contend with the difficulties due to ignorance of the vernacular which had caused the failure of the first mission to Germany. They were ferried across the Channel by the monks of Fécamp, and landed at Dover on 10th September 1224.[1] From Dover they proceeded to Canterbury, and thence to London, where they gradually separated to carry on their labour of love in different parts of the country. Unlike the early Scottish Franciscans, they were fortunate in having a chronicler in the person of one of their converts, Friar Thomas Eccleston, whose account enables us to understand the enthusiasm with which they were received, and the forcible appeal which their bare feet, patched garments and creed of humble poverty made to the popular mind. This aspect is perhaps nowhere more aptly described than in the words of one of the editors of Eccleston's *De Adventu Minorum in Angliam*, who says: "Without any of the ambition of the professed historian, he has contrived to compose a narrative of thirty years which cannot fail of interesting his readers, whether curious or not, in the progress of the Order to which he belonged. He gives us what no other writer less simple-minded and zealous would have cared, or, perhaps, been willing to give, a clear unvarnished picture of the friars in their poverty, and before their Order had been glorified by the eminent schoolmen of a later period. In this little work, the reader may see the friar in his cell or refectory, sitting round the fire and warming the dregs of sour beer, or shedding tears at mass in his little chapel of wood; or he may listen to the Provincial Minister in the infirmary, warning the novices in that peculiar form of apologue or fable which made the friars famous, and associated their names with the most pithy apophthegms and stories throughout Christendom."[2] The

[1] The doubt as to the date of their arrival in England is fully discussed by Mr. A. G. Little in *The Grey Friars in Oxford*, p. 1.

[2] *M. F.*, I. pf. 74, edited by the late Professor Brewer. Eccleston's chronicle is also printed in the first volume of the *Analecta Franciscana* by the Franciscans of Quaracchi, Florence, 1885, with a few corrections, but without a re-examination of the MS., and in ignorance of the "missing manuscript" in the Philipps collection, described by Mr. Little in the *English Historical Review*, V. 754 *et seq.* See also Mr. Little's "Sources of the History of St. Francis," *ibid.* XVIII. 643 *et seq.*

success of their preaching was immediate, and with the rapid increase in the number of their convents it was soon found necessary for administrative purposes to follow the Italian plan of dividing them into groups called *Custodies*, with one convent selected as the head of the Custody and giving to it its name. The most northerly Custody in England was that of Newcastle, from which the friars in the natural process of expansion passed into Scotland, settling successively at Berwick and Roxburgh; and, when first met with in the Annals, this Custody embraced eight friaries, five of which were Scottish—Berwick, Roxburgh, Haddington, Dumfries and Dundee. The *Melrose Chronicle* fixes the year 1231 as the date when the friars crossed the Tweed at Berwick,[1] and this was accepted by Fordun in the *Scottichronicon*,[2] and by the writer of the *Extracta*, who added that they were favourably received by the king.[3] To this mission, whose progress was relatively much slower in Scotland than it had been in England, was due the foundation of the eight Conventual Friaries at Berwick, Roxburgh, Haddington, Dumfries, Dundee, Lanark, Inverkeithing and Kirkcudbright, which were in the course of time erected in this country. That is to say, it was the means of introducing the Franciscan propaganda into Scotland, and for a time directly guided its progress; but it cannot be asserted that any of the foun-

[1] *Hic primo ingrediuntur fratres minores Scotiam.*

[2] *Scottichronicon à Goodall*, lib. ix. cap. 48, p. 59.

[3] *Extracta a variis Chronicis Scocie* (Bann. Club), p. 93. Father Hay in his history of the Observatine Province, written in 1586 at the request of Friar Gonzaga, then Minister General, (*infra*, II. p. 173) gives the year 1224 as the date of the first appearance of the Franciscans in Scotland; but it is evident that this date refers to the mission of Agnellus to England. Gonzaga (*De Origine Seraphicae Religionis Franciscanae*, 1587) necessarily adopted the statement of his informant, Father Hay, and in this he was at first followed by Wadding (*A. M.*, No. XLIV. *sub anno* 1224), who subsequently altered the date to 1231 (No. XX. *sub anno* 1234). This date was accepted by his continuator, founding on the above quotation from the *Scottichronicon*. The *Melrose Chronicle*, the source of that quotation, may for the period in question be considered nearly contemporaneous. There never was, prior to the arrival of the Observatines in 1447, an independent Franciscan mission to Scotland, and clearly both countries were leavened from the same source —the mission of Agnellus to England in 1224. The year 1219, which was selected by our later historians so as to coincide with the mythical visit of Alexander II. to Paris, is an impossible date, as the friars in France were not then sufficiently organised to send any of their number on a mission to England or Scotland.

dations subsequent to Roxburgh and Berwick were due to English influence. On the contrary, the founders were Scots men and women, and the race of friars who ministered in the convents were Scotsmen, always eager to effect a separation from their parent Custody.

An informal habitaculum was at once established at Berwick, and the year 1231 may be accepted as the date of its foundation, although it was not transformed into a regular friary until the month of May 1244, when its church and cemetery were consecrated by David de Bernhame, Bishop of St. Andrews,[1] during the visitation of his diocese in obedience to the orders of Legate Otho. From Berwick the friars ascended the vale of the Tweed some time between the years 1232 and 1234, and erected their first friary in the then important burgh of Roxburgh. Shortly afterwards, when they had marked out a piece of ground for use as a cemetery, and requested its consecration at the hands of the suffragan of the diocese,[2] they came into conflict with the monks of Kelso on the vexed question of the right of burial. This was a right and perquisite jealously guarded by the parish clergy and their patrons, to whom the mortuary dues were a substantial source of income. It had been somewhat curtailed in favour of the Franciscans by the *Ita vobis* of 1227, in which Gregory IX. granted them permission to bury members of the Order within their own churches and cemeteries.[3] Thirty-three years later, this restricted privilege was expanded into a much more serious encroachment on the rights of the parish clergy; and it was doubtless the desire to have their rights strictly defined in the court and register of the diocese that induced the monks of Kelso, as the patrons of all the burgh churches, to resist the consecration of the Franciscan cemetery. A complete record of the pleas or proceedings has not been preserved, so that it is impossible to ascertain the claims which were put forward on either side when the case was debated before the Bishop by Herbert Mansuel, Abbot of Kelso, and Friar Martin, "Custos of the Friars Minor in Scotland." The Bishop gave his decision

[1] *Statuta Eccl. Scot.* I. cccii. [2] William, Bishop of Glasgow.
[3] Re-issued in more definite terms on 9th March 1233; *infra*, p. 416.

in the form of a restatement of the innovation introduced by the *Ita vobis*; and on the same afternoon he proceeded with the solemn ceremony of consecration.[1] The prudence of the protest and the formal reservation of the general rights of the monks was proved some years later, when the friars of Haddington buried Patrick, Master of Atholl, within the precincts of their church,[2] although the burial of laymen within the friary was not sanctioned until 1250.[3]

From another point of view, these two friaries transcend mere local interest, inasmuch as by their erection into a province, under the style of the Province of Scotland, they played a part in the dispute between Friar Elias of Cortona and the members of the Order who sought to maintain a rigid adherence to the Rule and Testament of St. Francis. In this aspect, it was the revolt of simplicity against organised bureaucracy. As offshoots from the English Province, the friaries at Roxburgh and Berwick were naturally placed within the Custody of Newcastle for administrative purposes, in spite of their demand for autonomy. This refusal on the part of the English friars, to recognise the Tweed as the limit of their jurisdiction, quickened the jealousy of the Scots for their spiritual independence; and they appealed to Friar Elias, who had been elected Minister General by the Chapter of 1232 in full knowledge of his subservience to the Curia. As their request coincided with his theories of government, the Scottish claimants found him a ready listener; and a mandate was issued, directing "that the English Province be divided into two provinces, the one to be styled the Province of Scotland and the other the Province of England as heretofore."[4] The disjunction was effected in or about the year 1235, almost coincident with the death of Agnellus, the first Provincial of England; and Friar Henry de Reresby of Oxford was appointed Provincial of the new province. He, however, died before he could enter upon his duties, and the task of organisation was reserved for his successor, John

[1] 4th May 1235: *Liber de Calchou*, II. 321. No. 418 (Bann. Club); *infra*, II. p. 1.
[2] *Lanercost Chron.*, pp. 49, 50 (Bann. Club).
[3] *Cum a nobis*, 25th February 1250; *infra*, p. 418.
[4] *M. F.*, I. 31–32.

de Kethene, Warden of the Friary at London. Considering that there were only two friaries north of the Tweed, it is not surprising to find that Friar John incorporated all the houses north of York within his Province; so that, while bearing the name of the Scots Province, it was really a second English Province ruled over by an English friar. This was quite in harmony with the actings of the Minister General who, provided he attained his main object — the multiplication of the provinces to the number of 72 — took no heed of so trifling a distinction as that which divided the peoples living on either side of the Tweed. Little is known of the history of the province during the short period of its independent existence. Its Minister continued to be John de Kethene, and Eccleston refers to an agitation caused by the presence of Friar Wygmund, a learned German who had been sent to this country as "Visitor of the Minister General." This system of delegation put into practice by Elias, in imitation of the arbitrary manner in which he had dealt with the provincialates, subordinated the entire Order to the unwelcome jurisdiction of those Visitors.[1] Their interference extended to the most trivial details of daily life, one order of the Minister being to the effect that the friars should wash their own breeches. Hence, as the chronicler naïvely remarks, "the friars of England washed according to what was commanded; but the friars of the Province of Scotland waited for their rescript."[2]

In both provinces the actings of this Friar Wygmund aroused intense indignation. The English friars, in their Chapter held at Oxford, unanimously decided to appeal to the Chapter General against these visitations; while the Scottish friars refused to listen to him when he appeared among them, alleging that they had already been visited by the Provincial of Ireland on behalf of the Chapter General. At length, active opposition to this state of affairs was offered by Haymo of Faversham on behalf of England, the celebrated Richard Rufus for France, and the chronicler Jordon a Giano for Germany; and Gregory IX. referred their appeal to the consideration of the Chapter General held in Rome at

[1] Dr. Lempp, *Frère Elie de Cortone*, pp. 124–25. [2] *M. F.*, I. 33.

Whitsuntide 1239. With his approval, Elias was deposed from the office that he had abused, and Albert of Pisa, Provincial of England, was elected in his place. The Chapter also curbed the power of the Minister General by reducing the provinces from 72 to the number at which they had stood prior to the creations of Elias; and the *Quia Provinciarum* of Nicolas IV.[1] prohibited the erection of new provinces without papal sanction. Among the provinces thus suppressed was that of Scotland, and the friaries of Berwick, Roxburgh, and probably Haddington, were once more placed directly under English jurisdiction; while the Provincial, John de Kethene, was transferred to the provincialate of Ireland. To anticipate, at the Chapter General held at Narbonne in 1260, a new arrangement of provinces was effected, fresh limits were assigned to them, and two new provinces were created with four vicariates, thus raising the number of provinces to 33, containing in all 230 friaries. In this Chapter, the Scottish friars again shewed their desire to be freed from the control of their English Superiors by proposing that the Scottish friaries, now three in number, should be erected into a province. They appealed in the first instance to their young King, Alexander III., who transmitted their request in the form of a petition to Pope Alexander IV. His Holiness thought fit to approve of their request; and in a letter, remarkable for the kindly feeling shown towards the youthful monarch, he directed the Chapter to proceed to the appointment of a Provincial Minister in Scotland:—

"Entreated by the King he ordains a Provincial Minister to be appointed in the Kingdom of Scotland.

Alexander, Bishop, servant of the servants of God, to his dear sons, the Minister and Chapter General of the Friars Minor, greeting and apostolic blessing. We rejoice in the knowledge which has come to us concerning our dearest son in Christ, the illustrious King of Scotland, that it is his earnest desire, in what concerns the salvation of his soul, to have the counsel and advice of religious and god-fearing men, and especially of the friars of your Order resident in his kingdom, as the support of his tender years. As also, for that reason, that there be appointed there a Provincial Minister for that Order, so that the worthy

[1] 13th May 1288.

acts of the said King in this respect, which in the past have sprung from his own knowledge, may, by the aid of divine grace, more readily yield good results, and that the foresaid Order may be more widely reverenced by the said King. Therefore, in so much as it is meet that the desire of the said King, so laudable in itself, should by our favour have its desired fulfilment, we have enjoined your community to have the matter brought before it, and to be carefully informed thereanent: Commanding you by our apostolic rescript forthwith, out of regard for the evident and kindly affection which you bear towards the Holy See and our Reverence, to provide for the appointment of a Provincial Minister in that kingdom without delay, so that in the future we may graciously bestow rewards upon you, and the King's goodwill towards you be still further increased."[1]

Papal influence was, however, insufficient to compel a favourable decision from the Chapter, in which the initial power of sanctioning such a proposal lay.. In the words of the continuator of the work of Sbaralea, the Chapter General was pontiff in such matters, and as such it refused the request of the Scottish friars, doubtless owing to the small number of their friaries. This decision raises considerable doubt as to the manner in which the Scottish friars were governed at this period. Friar Annibal speaks of them as desiring that their wardenship might be erected into a province; and it must be admitted that it is more than doubtful if the English Provincials ever exercised any practical control over them. We have already seen Friar Martin officially designated as the Custos of the Scottish friars; but, what is more remarkable after the refusal of the Chapter in 1260, the Popes, and subsequently Edward I., continued to issue mandates and orders addressed to the "Provincial Minister of Scotland." An instance of this form of address occurred in 1274, when Pope Gregory X. sent a letter to the Scots Provincial of the Grey Friars, desiring them to preach for the Crusade then in contemplation;[2] and in 1279 another papal mandate[3] was addressed to the Bishops of St. Andrews and Aberdeen and to the "Provincial Minister of the Friars Minor in Scotland," directing them to endeavour to procure from

[1] *B. F.*, Supplementum, p. 140; *infra*, II. p. 275.
[2] Theiner, *Mon. Vet. Hib. et Scot.*, p. 105.
[3] *Cal. Pap. Reg. Letters*, I. 457, 464.

the Dean of Caithness a renunciation of his right to that See. It is difficult to believe that the bishops would have worked in collaboration with the Provincial of the English Franciscans, or that the latter crossed the Border on such an errand, so that these writs, taken in conjunction with the royal and papal support accorded to the petition of the Scots friars, raise a strong presumption that they enjoyed at least a *de facto* autonomy, managing their own affairs, and electing one of their number, under papal recognition, to preside over them as Custos or Provincial Vicar. The fact that he appears in these writs as Provincial might well be explained by the formality in style of the writings issuing from the Papal Chancery; but, at the same time, there is no indication that that issued by Edward I. was addressed to an English friar.[1] On the contrary, they point entirely in the other direction, and this theory receives further support from the fact that the next formal disjunction of the English and Scottish houses coincided with the complete establishment of Scottish independence. King Robert the Bruce, a warm supporter and lavish benefactor to the Order, decided, in accordance with the spirit of the time, that the Scottish friars should be freed from English control. The steps taken to effect this purpose, either in the Papal Chancery or in the Chapter General, have not been preserved in our records;[2] but there appears a contemporary notice in the *Lanercost Chronicle* to the effect that in 1329 "the Scots friars obtained a certain Vicar of the Minister General and were wholly separated from the friars of England."[3] In a list of provinces accepted by Wadding, and erroneously referred by him to the year 1314, the Scots Vicariate appears under the ultramontane[4] section as number 16—"The Vicariate of Scotland has six places"—thereby showing that the year

[1] *Infra*, p. 22.

[2] Nor is mention made of the preliminaries in Wadding, Sbaralea, or Cocquelines.

[3] *Et a fratribus Angliae totaliter sunt divisi.* The Chronicler was himself a Grey Friar of Carlisle, and obviously refers to the Scottish Franciscans, as the Dominicans remained under English control until 1484.

[4] This word will be consistently used in its Roman signification, variations in Scottish writs being noticed.

referred to must have been subsequent to 1328, when the sixth friary was erected at Lanark by Robert the Bruce. The annalist then continues, "there was added the Vicariate of Scotland which was not instituted in the time of Bonaventura (1260), but these convents then subject to the English Province were few in number."[1] The growth of the Order in Scotland, he adds, had been retarded by the continual wars with England, and by the *motus turbulenti* of the kingdom. His statement is therefore in agreement with that of the Grey Friar of Carlisle except in regard to the date, and all doubt on that point is set at rest by the internal evidence of the well known Provinciale[2] which was compiled between the years 1324 and 1344, probably in 1340.[3] The Scots Vicariate of six friaries is number 18 in this enumeration, but the compiler has also followed the old census by including the Friaries at Berwick, Roxburgh, Haddington and Dumfries under the Custody of Newcastle.[4]

Having attained the dignity of a vicariate enjoying at least a *de facto* autonomy, the Wardens of the six friaries held their first Provincial Council and elected a Provincial Vicar. One of his duties was to attend the triennial meetings of the Chapter General, and consequently the Scots were represented by their own Provincial for the first time in the Chapter which met at Perpignan in the Franciscan province of Provence in 1331. On this occasion, the Scottish Treasury contributed sixty-six shillings and eight pence[5] towards his expenses, in imitation of the practice in England where the Provincials were allowed a sum of twenty pounds for their use when in attendance at the Chapter General, and fifteen pounds for the meetings of their Provincial Chapters.[6] During the next twenty years, the English successes in Scotland, followed by Edward Balliol's surrender of his

[1] *A. M.*, VI. 226–27. He also refers to an ancient manuscript in the Vatican in which a similar statement is made. *Ibid.* VII. 338, No. 26.

[2] *Codex Vat.* Nr. 1960. Edited by Friar Conrad Eubel, 1892.

[3] *Ibid.* p. 4.

[4] *Ibid.* p. 12.

[5] *Exch. Rolls*, I. 398. "*Et generali vicario ordinis Fratrum Minorum expensis suis ad generale capitulum.*"

[6] *Patent Rolls*, Edward III., 1338, 467. The Scottish Dominicans paid ten pounds to the priory in which their Provincial Chapter was held, as an allowance for the lodging of the Priors who attended it.

rights to Edward III., led to the second suppression of the Scottish Vicariate as an independent unit in the Franciscan organisation by the Chapter General held at Genoa in 1359.[1] Wadding's continuator explains that this step was taken because of the small number of convents; but we may be permitted to doubt if that explanation touches more than the fringe of the question, and the subsequent history of the Scottish friaries in this aspect is somewhat obscure, owing to the view adopted by Wadding, who had little material from which to compile a reliable account of Scottish affairs during the fourteenth or fifteenth centuries. Thus, although the Vicariate was dissolved in 1359, it is more than questionable whether the English Provincial ever exercised any authority over its friars, because the local conditions prevailing after that date would lead us to expect a *de facto*, if not a theoretical, independence from English control; and the great Western Schism which broke out in 1378 was a potent factor in the loosening of the bonds of discipline in the fraternity. This ecclesiastical dissolution was reflected in general politics in a manner wholly consistent with prior national history.[2] Following upon the appointment of two Popes, and of two Ministers General in the Order, we find that the friars, in their choice of spiritual superiors, identified themselves with the political sympathies of their respective countries. While the Italian, German and English friars remained as a body faithful to Pope Urban VI. of Rome, those of France, Spain and Scotland ranged themselves in preponderating numbers on the side of the Anti-Pope, Clement VII.[3] Doubtless, so far as this country is con-

[1] *In hoc capitulo Vicaria Scotiae ex certis causis unita Provinciae Anglicanae* (*Chronica Glassberger*, *A. F.*, II. 193; *A. M.*, VIII. 144, No. 5). Rodolphus, however, says that the Scottish Vicariate was united to England ten years earlier at the Chapter General of Verona. The records of this Chapter are lost (*A. M.*, VIII. 25, No. 10).

[2] *e.g. A. M.*, IX. 246, 249.

[3] In the Low Countries, and the part of Germany to the west of Cologne in particular, this division not only permeated the several provinces, but even invaded the individual monasteries, and in those cases the Superiors used every means in their power to thirl their subordinates to the Pope on whom they themselves depended. Schlager, *Beiträge zur Geschichte der Kölnischen Franziskaner-Ordensprovinz*, Köln, 1904, p. 88.

cerned, this division of sympathy was due to the alliance between the French and Scots; and it need hardly be doubted that the Scottish friars would willingly cease to recognise the authority of an English Provincial who acknowledged a different Pope and Minister General. No evidence is furnished by Wadding to show when Scotland was again recognised as a Vicariate. In 1399 he states that it was included in the Custody of Newcastle; and, in 1402, he argues against the existence of the Vicariate, quoting in support of his contention no less than three codices, in addition to the statement of Bartholomew of Pisa.[1]

The evidence offered by the author of the Conformities is however of little value, because he merely deleted the Scottish Vicariate from the old Provinciale and retained the same five friaries under the Custody of Newcastle; whereas the friaries at Lanark and Inverkeithing had been erected before he wrote his work in 1385.[2] On the other hand, another Provinciale, compiled at Ragusa in the same year by Friar Peter of Trau, affirms the existence of the Vicariate, and adds the circumstantial details that it was divided into three Custodies with nine friaries, two nunneries of Claresses, and three congregations of Penitents or members of the Third Order of St. Francis.[3] This enumeration does not agree with our present knowledge of the number of Conventual friaries in this country,[4] but the existence of the Vicariate is amply

[1] *A. M.*, VI. 43; IX. 219; XI. 88.

[2] *Liber Conformitatum*, p. 161, ed. 1620.

[3] MS. Bodleian, *Canonic. Miscell.*, fol. 241*b*—"*Provincia Scotiae habet, c. iii, l. ix, m. ii, c. iii.*" At fol. 192*b* he gives this notice of the Vicariate: "*De beatis fratribus in vicaria Schocie quiescentibus* cap 45. *In hac enim vicaria collocantur fratres beati, de sepulchris tamen ex premissis ignoti, videlicet, frater Angelus nobilis de burgo Sancti Sepulchri, quem viventem beatus Franciscus vivens certificavit de regno patrie, significans eum pro hoc cruce in fronte, ut habetur in speculo perfectionis* cap 15. *Item frater Rogerius cujus sanctitatis patet ex predictis de gestis sociorum* cap 95." Manuscript described by Mr. A. G. Little, *Op. de Critique Historique*, I. 251–297.

[4] They numbered seven, including Kirkcudbright erected in 1455, and not a trace now survives of the two nunneries of Poor Clares. It is, however, possible that they enjoyed a brief existence before being annexed to one of the other nunneries, just as the smaller priories at St. Monans and Cupar were suppressed and their endowments transferred to the Black Friars of St. Andrews. *Reg. Mag. Sig.* (Print), 23rd January 1520–21.

confirmed by the bulls and letters addressed to the Provincial Vicar of Scotland by Clement VII. in connection with the promotion of Friar Rossy in 1375,[1] and by an Indenture of 1389 in which Friar William of Dundee is described as "Vicar of the Order of Friars Minor of Scotland."[2] In 1438, Wadding tacitly admits the existence of the Vicariate when he includes the name of William Ker as Provincial of the Vicariate of Scotland for that year.[3] The Exchequer Rolls further furnish us with an almost complete list of the names of the Vicars who ruled over the Conventual friars from the year 1462 down to the Reformation;[4] and this fact, when taken in conjunction with the consistent nomenclature applied to their Superior in a variety of legal writs, proves that the Scottish Conventuals continued to be members of an independent Vicariate, both in relation to their former Superiors in England and to their rivals, the Observatine brethren of the Order. The customary residence of the Conventual Provincial Vicar was at Dundee; and the Chapter was held annually under his guidance in each of the friaries in rotation. Provincial James Lindsay presided over the meeting at Dundee in 1482, and John Yhare over those held at Inverkeithing and Lanark on 2nd August 1489 and 11th July 1490.[5] It is also probable that the all but definite language of the charters granted by the Conventual friars between 1552 and 1560, supplemented by the lists of Wardens contained in them, indicate meetings at Kirkcudbright in 1552, Inverkeithing in 1555, Dundee in 1556, and Dumfries in 1558, all held under the presidency of Friar John Ferguson, who was elected Master of the Conventuals in 1541 and retained the direction of the Order in his hands until 1560. The friars themselves passed from convent to convent, and a similar system of permutation among the Wardens may be observed in outline until the sixteenth century, when the same friar is met with as Warden of his friary year after year.[6]

The Observatine mission, which reached Scotland in 1447, in reply to the invitation of James I.,[7] came directly from the

[1] *Infra*, p. 29.
[2] *Infra*, II. p. 9.
[3] *A. M.*, XI. 49.
[4] Summary of Friars, *infra*, p. 258.
[5] Writs relating to the Friary of Dundee, *infra*, II. p. 132.
[6] Summary, *infra*, p. 258.
[7] *Infra*, p. 51.

Netherlands, and was therefore wholly independent of English control. Its progress was relatively more rapid than that of the Conventuals had been, and the necessity for a definite organisation was quickly felt. Accordingly, when they were in possession of three completed friaries, the Chapter General held at Monte Lucido in 1467 sanctioned the erection of their houses into the Observatine Province of Scotland; and this decision was confirmed by the Chapter held three years later.[1] The question of terminology had evidently become one of less importance, in part owing to the rivalry between the two families of friars; and, by reason of the strong appeal which their extreme simplicity made to the religious instincts of the people, the Scottish Observatines increased so rapidly in number, that they quickly justified the confidence of the Chapter.

Returning to the narrative of the expansion of the Order during the reigns of Alexander II. and Alexander III., we find that the friars had settled in Haddington and Dumfries in or about the years 1242 and 1262 respectively. Dundee was chosen as the site of their fifth friary in 1284, and about the same date they visited the episcopal burgh of Elgin, where they received a cordial welcome from the Bishop of Moray and an invitation to settle in the diocese.[2] The Black Friars had, however, already established themselves in the town; and the Franciscans declined the offer of the Bishop, in accordance with their then invariable custom of refusing to accept a friary in a locality colonised by the Dominicans. Dundee thus remained the northern limit of their influence until the Reformation, and the larger towns were not brought directly into contact with the Franciscan propaganda until the arrival of the Observatine mission in 1447, when Father Cornelius had no other choice than to enter into competition with the Black Friars to avoid duplicating the work of his Conventual brethren.[3]

Alexander III. was one of the many sovereigns in Europe

[1] *A. M.*, XIII. 461, No. 2. By this date the Conventual and Observatine divisions of the Order met and legislated for themselves in separate Chapters General.

[2] *Reg. Episc. Moraviensis*, p. 281 (Bann. Club); *infra*, p. 361.

[3] *Vide* Comparative Table of Friaries; *infra*, p. 140.

at this time who selected Grey Friars to aid them in their private devotions or to receive their confessions. The possibility of this practice was unconsidered by St. Francis in the compilation of the Rule of 1223, which permitted the friars to travel on horseback only in cases of necessity or sickness.[1] Constant attendance on a sovereign or noble, however, implied an amount of travelling which rendered a complete observance of their founder's intentions inconvenient, if not impracticable, with the result that the section of the Rule was frequently abrogated by papal indulgence granted to these friar chaplains. Thus, we find that the English friars received permission from Innocent IV. in 1250 to ride on horseback when in attendance upon Henry III. "in the parts beyond the sea";[2] and four similar privileges were granted to the Scottish friars permitting them to attend Alexander III. These bulls, which originally formed part of our national records kept in Edinburgh Castle before the spoliation by Edward I. in 1292–96, are now known only through a notice appearing in the Inventory of 1282, one of the few documents which have survived his destructive raid.[3] Another such is a memorandum of the Scots records, handed by Edward to the Scots Treasury on the occasion of the coronation of Balliol at Roxburgh Castle in 1292. It contains the following enigmatical reference to the friars:[4] "in the (third hamper) 63 pairs of letters of the said wardens of letters to sundry friars, viz., to the men who served the King in name of garrison, corn and pence, also 27 letters of the same of payments in pence, and others to the friars of the Order of Preachers and of the Minors." The year 1265, when Cardinal Ottobon was appointed to preach a Crusade in Scotland and other countries, is of interest as illustrating a difference of opinion between the Papacy and the Franciscan Order in relation to the

[1] *Solet annuere*, cap. 3. "*Et non debeant equitare, nisi manifesta necessitate vel infirmitate cogantur.*" *Infra*, II. p. 382.

[2] *B. F.*, I. 542, No. 325; *Fœdera*, I. 274, 91, Record Edition.

[3] *Acts of Parl. of Scot.* (Thomson), I. 108. The deed is preserved in the Public Record Office, London.

[4] The memorandum is now preserved in the General Register House, Edinburgh, and is the oldest official document there.

general affairs of the Church. By degrees, the friars had become the trusted and willing agents of the Curia in the transaction of its general business,[1] and those who favoured the strict observance soon came to consider this phase of action inconsistent with perfect obedience to the Rule. A petition was therefore presented to Innocent IV. asking that they be released from thus participating in business affairs, and from being brought into immediate contact with money through a demand made for it in their sermons. His Holiness thereupon homologated the decision of the Chapter General, to the extent that they might refuse their assistance to any papal nuncio or agent, except a papal legate, unless this privilege was specially revoked in his letters of authority.[2] Accordingly, the two papal legates sent to Britain—Guy, Bishop of Sabina, in 1263, and Ottobon, Cardinal of St. Adrian's, in 1265—both received authority to compel the Grey Friars by ecclesiastical censures to assist them in every way they thought fit.[3] Ottobon's demand for a payment of four merks from each cathedral was resisted by the Scottish clergy and ultimately compromised at a smaller amount;[4] but this was doubtless a matter of no interest to the Grey Friars, who could not be called upon to contribute anything beyond their services as collectors.[5] Nine years later, in pursuance of the provision made for another levy on all church revenues in support of the Crusade,[6] Pope Gregory X. addressed a letter to the Scots Provincial from the General Council of Lyons, exhorting his friars to preach the Crusade in their sermons.[7]

Among the most munificent of Scottish ladies known to

[1] On political missions as well as for the collection of subsidies for the Crusades.

[2] *Vestra semper*, 1st August 1253.

[3] *Cum te*, 27th November 1263; *Cum te*, 3rd June 1265. *Cal. Pap. Reg. Letters*, I. 398 and 428–429.

[4] *Statuta Eccl. Scot.*, I. lxii.

[5] In the papal mandate of 5th May 1265 (*Cal. Pap. Reg. Letters*, I. 429), the Claresses alone of the Franciscan Order appear in the list of those exempted from payment of the tithe; but Alexander IV., *Virtute conspicuos sacri*, 2nd August 1258, had already declared that the friars, unless expressly named in the papal letters, were not to be called upon to contribute to collections, subsidies, etc.

[6] *Hefele Councilungeschichte*, VI. 119 *et seq.*; Fordun, X. c. 33, p. 121.

[7] Theiner, *Mon. Vet. Hib. et Scot.*, p. 105.

history during the latter part of the thirteenth century was the Lady Devorgilla of Galloway, the foundress of Sweetheart Abbey and of the Friaries at Dumfries and Dundee. On the death of her father, the last of the great feudatories of Galloway, she succeeded to a rich inheritance as one of three co-heiresses, and married Sir John de Balliol of Barnard Castle, the founder of an almshouse at Oxford which was conducted on the model of those in Paris. The origin of this endowment, which provided for the lodging of certain poor scholars and a payment of eight pence per day for their support, was a penance imposed on Balliol by the Bishop of Durham;[1] but the continuance of the almshouse, now known as Balliol College, depended solely on the good pleasure of the "pious founder" and of Lady Devorgilla after his death in 1269. Acting upon the advice of her Franciscan confessor, Friar Richard de Slikeburne, she granted a Charter of Constitution to the College in 1282,[2] and, in a further letter addressed to her "most dearly beloved brother in Christ, R. de Slikeburne," she speaks of "the alms of the poor scholars of our House of Balliol studying at Oxford by the devoutness of the Lord John de Balliol of good memory, formerly our husband, of late begun, and, after his decease, hitherto continued by us."[3]

The interregnum, the adjudication of the crown, and Balliol's witless conduct lead up to the formal opening of the War of Independence. On 4th April 1296, five days after the capture of Berwick, Friar Adam Blunt,[4] Warden of the Roxburgh Friary, delivered Balliol's renunciation of fealty and allegiance to Edward on the scene of the recent ruthless massacre in which the citizens had fallen like leaves in autumn.[5] The moment was ill chosen, and provoked

[1] *Colleges of Oxford*, pp. 24–26. Andrew Clark, 1891.

[2] Facsimile in *National MSS. of Scotland*, II. No. iv.

[3] *Hist. MSS. Com. Rep.*, IV. 442–44, where it is stated *per incuriam* to be photographed in the Scot. Nat. MSS.; cf. Mr. A. G. Little, *The Grey Friars in Oxford*, pp. 9, 10, 11.

[4] Dempster describes Friar Blunt as a celebrated writer, and goes so far as to furnish a list of his works. Unfortunately, Dempster is himself described by Catholic writers as a "suspected author," whose unsupported statements must be accepted with all reserve.

[5] Holinshed, *Chronicle*, III. 299a.

Edward to voice his intentions in the sarcastic threat, "What folly! If he will not to me, I must to him."[1] Fulfilment was not long delayed. The battle of Dunbar followed; on 7th May[2] Edward lodged in the Friary at Roxburgh; and on the following day the castle was surrendered to him. The apparent submission of the whole country followed, and in his progress northwards to Elgin he reaped the abundant harvest of his victory in doubtful oaths of allegiance inspired by fear of his sword. Unlike the other churchmen, the Grey Friars were spared the indignity of subscribing the oath to him, and their names do not appear in the "Ragman Rolls," doubtless owing to their impersonal position in the country, and the meagre acreage of the friary lands. Moreover, it is beyond doubt that they had not as yet displayed those keen Scottish sympathies which compelled Edward III. to regard them as one of the most formidable influences to be dealt with in the subjugation of the country; and ample evidence of their indifference towards contemporary politics, or the claims of nationality, is to be found in their petition to the conqueror. The national records with which he had been tampering since 1291 were carried off to England; and in September of 1296 a Treasury for Scotland was established at Berwick under the notorious Cressingham. At this juncture, the yearly bounties, which the friars had been accustomed to receive from the Scottish Exchequer, ceased to be paid; and, in the autumn of the following year, the five friaries addressed an appeal to Warrenne, the English Governor, craving the continuance of their respective allowances.[3] Their petition was favourably received; and, on 23rd November 1297, Cressingham was directed to make a search through the Rolls of Alexander III. and John Balliol, "which you have in your custody," for the purpose of ascertaining the correct amounts. After due investigation, Edward approved of his deputy's policy, and sanctioned the payment of John Balliol's alms to the friars for this year (1297):

[1] *Scottichronicon*, XI. 18.
[2] Gough, *Itinerary of Edward I.*, II. 280.
[3] *Hist. Doc. Scot.* (Stevenson), II. 244–7.

"Order by Edward I. for the payment of money to the Friars Minor in Scotland.

The King, to his beloved and faithful John de Warrenne, Earl of Surrey, Guardian of his realm and land of Scotland, greeting. Whereas it appears from the Chamberlain Rolls of the time of Alexander and John de Balliol, sometime Kings of Scotland, that the Friars Minor of Berwick, Roxburgh, Haddington, Dumfries and Dundee, received by the bounty and alms of the foresaid towns, which was allowed in the rendering of the account of the duties of these towns, as you have signified unto us; we, therefore, desiring to continue this favour to these friars, command that for this year, of our alms and special favour, you cause to be paid to the said friars the like sum of money as the said Chamberlain Rolls of the time of the foresaid John may show they have received in one year, and of which allowance has been made in the said Rolls. Attested by the King at Walsingham, 7th February, 25 Edward I., 1297–98."[1]

The details of the claim submitted to Warrenne were—

1. To the Friary at Berwick, three shillings weekly and a stone of wax annually for candles.
2. To the Friary at Roxburgh, three shillings weekly and 18 stones of wax and one pipe of wine for sacrament annually.
3. To the Friary at Haddington, three shillings weekly.
4. To the Friary at Dumfries, three shillings weekly, ten and seven stones of wax and one pipe of wine annually.
5. To the Friary at Dundee, ten pounds sterling and twenty pounds of wax annually.

During the truce of 1299, Edward assembled his army at Berwick for a renewed invasion of Scotland, having previously requested from the Chapter General that the prayers of the Grey Friars should be offered on behalf of his expedition.[2] Delay, however, occurred owing to the attitude taken up by his barons on domestic questions, at that time of greater interest to them than an invasion of Scotland; and it was not until June of the following year that Edward was able to concentrate his forces at Carlisle, preparatory to the

[1] *Rot. Scot.*, I. 38. See Warrenne's Mandamus and Excerpts from the Rolls of Alexander III. and John Balliol, *Hist. Doc. Scot.* (Stevenson), II. 244–7.

[2] *Fœdera*, I. ii. 914. While at Berwick he granted 10s. and 3s. 6d. as alms to the friars of the town. *Liber Quot. Contrar.*, p. 26, ed. 1787.

campaign against the Castle of Caerlaverock.[1] While on this expedition, Edward lodged three days in the Friary at Dumfries, for which he paid a sum of six shillings, and another of similar amount in recompense for the damage sustained by the buildings; while its exchequer was enriched by two oblations of seven shillings which he placed on the high altar on the 10th and 16th of July. On his return, after the surrender of the Castle, Edward again lodged in the friary, on this occasion for four days, at a cost of five shillings and four pence; and on 1st November his son Edward placed an oblation of six shillings on the high altar after the celebration of Mass in the friary church.[2] During the next year, the Friars of Berwick again shared in his largess, through their Warden, Friar Robert of Carleton;[3] and a few days later, he lodged in the Friary at Roxburgh, paying in return a sum of five shillings to Friar Robert of Rotheley.[4] The winter of 1301–02 was spent by Edward at Linlithgow, and on 18th December he again sent a petition to the Franciscan Chapter General at Genoa, asking for the prayers of the friars on his behalf. Two years later, he sent a similar request on behalf of himself, his family and kingdom, to the Chapter General at Assisi;[5] and in 1305 he addressed a request for prayers and masses, to be said for the soul of Johanna, Queen of France, to the Minister General of the Minors in Scotland — an unexpected designation, as the Scottish friaries were incorporated in the Franciscan province of England, while Scotland itself was in Edward's own hands.[6] The year 1306, when the two Comyns, nephew and uncle, met their death at the hands of Bruce and his associates in the church of the Friary of Dumfries,[7] witnessed the first

[1] The siege of Caerlaverock Castle has its special historian, who is supposed to have been Walter of Exeter, an English Grey Friar.

[2] *Liber Quot. Contrar.*, pp. 41 and 43 *passim*. The context makes it impossible to accept the late Mr. Bain's interpretation in regard to these particular entries (*The Edwards in Scotland*, p. 35). In all his expeditions Edward preferred the shelter of a house to his tent, and the damage referred to would be caused by the fixing up of the tapestry or canvas hangings which were at this date carried about from place to place. His own suite would provide the necessary food.

[3] Bain, *Cal. Doc. Scot.*, IV. 447.

[4] *Ibid.* p. 448.

[5] *Fœdera*, I. 936, 960.

[6] Bain, *Cal. Doc. Scot.*, II. No. 1661.

[7] *Cal. Pap. Reg. Letters*, II. 192, 8th January 1320. Mandate to the Archbishop of York and the Bishops of London and Carlisle to publish the

intimate connection between the Franciscans and the national party in Scotland; and during the stirring years which followed there appears no reason to dissociate them from the rest of the Scottish clergy, who were among the first to recognise the genius of the young king. It is not certain if any of the Franciscans were present at his coronation; but it was in the church of the Friary at Dundee that the Provincial Council of the Church gave its formal adhesion to Bruce as King of Scots in 1309.[1] Henceforth, the friars may be said to have laid aside their strictly impersonal attitude as missionaries of the Church, and to have adopted the sympathies and leanings of the men and women among whom they worked; and we learn from the preamble of the Bull of Erection granted to the friars of Lanark in 1346 that they were greater sufferers during the Edwardian wars than any other of the religious Orders in Scotland.[2]

On 13th December 1309, the last step was taken towards the extinction of the great military Order of Knights Templar in this country, when a court of inquiry was held in Holyrood Abbey by the patriotic William Lamberton, Bishop of St. Andrews. The leading witness was the Abbot of Dunfermline, who, however, could only refer to rumours of evil practices and to clandestine receptions and midnight chapters as matters of suspicion; and among the other witnesses, was Friar Andrew de Douraid, Warden of the Grey Friary at Haddington, who was evidently called to prove that it was not the practice of the Knights of the Temple to confess to the Grey or the Black Friars.[3]

The battle of Bannockburn furnished the subject for one of the numerous Franciscan legends which had so great a fascination for our ancestors. The story must have been in circulation shortly after the date of the battle, as it appears in the famous *Chronicon XXIV. Generalium*,[4] a compilation by an unknown friar about the middle of the fourteenth century.

sentence of excommunication against Robert Bruce, Earl of Carrick, who slew John and Robert de Comyn in the cloister and church of the Friars Minor of Dumfries.

[1] *Acts of Parl. of Scot.* (Thomson), I. 460.

[2] Cf. Bull of Foundation of Friary at Lanark, *infra*, p. 26.

[3] *Processus factus contra Templarios in Scotia*, 1309; Wilkins' *Concilia*, II. 382.

[4] *A. F.*, III. 197.

The hero was a Gascon knight, Amanerius, Lord of Lebreto by name, a most faithful and devout disciple of St. Francis. When the battle was at its height, and the deadly shooting of the Scottish archers was rapidly paving the way to victory, the worthy knight in his fear called on St. Francis for protection. His appeal was immediately answered; the holy father appeared in the dress of his Order and graciously diverted the hostile arrows, so that none did him injury. On the adverse issue of the battle, Amanerius sought safety in flight; and at nightfall found himself in a lonely place where he feared that death would put an end to his misery. His wounds were slight, but his horse had received a deep gash, through which its intestines protruded and trailed along the ground. In this dilemma, he again turned "the eyes of his mind" to St. Francis and begged for protection and direction. The obliging saint once more appeared, and, bidding him follow without fear, led him to the English encampment, where he was joyfully welcomed by King Edward as a faithful and doughty knight.

In 1317, Edward II. endeavoured to maintain the appointment of Thomas de Rivers, an English Grey Friar, to the Bishopric of St. Andrews. The election had been made with the consent of Clement V. prior to Bannockburn; but the ordained Bishop, from the Scottish point of view, was William Lamberton. His patriotism had stood the severest test and had provoked the nomination of the English friar to his See; so that it is not surprising to find that the reply of the Bruce admitted of no compromise—Lamberton was the duly appointed Bishop, and could not be deposed until some delict was formally proved against him.[1] From John XXII., who was a Pope of more decided views than Clement V., Edward II. received a similar answer. Lamberton's alleged oath to the English King was of no weight in the Curia; a search had failed to disclose any trace of sentence having been pronounced against him; and the English friar could not be promoted to the See unless the English King produced papal letters or a record of the process against the Scotsman. Papal justice thus

[1] *B. F.*, V. No. 284; *A. M.*, VI. 300, No. 56; *Cal. Pap. Reg. Letters*, II. 421.

accorded with the gratitude of the Bruce, and Bishop Lamberton was left in peaceful enjoyment of his See. In the following year, when the Scots were encamped in the Old Cambus Woods, preparatory to an assault on the town and castle of Berwick, Bruce and his followers again shewed scant consideration to the English friars—for as such the friars of Berwick must be regarded at this date. Under English inspiration, papal bulls strongly urging the maintenance of peace had reached Berwick, having been brought to Durham by the Cardinals Gaucelin and Luke, and thence carried northward by some English churchmen. The attitude of the Bruce towards documents which were not addressed to him in his kingly capacity was apparently known to the messengers, who engaged Friar Adam Newton, Warden of the Grey Friary at Berwick, to act as their ambassador and convey the letters to the Scottish King. Under protection of a safe conduct signed by Walter the Steward, the Warden and his companion reached the camp, only to be informed that Bruce would not receive them. The rank and file thereupon despoiled Newton of his letter of protection, and some time after he and his "marrow" had quitted the camp they were overtaken by a band of Scots, who robbed them of their papers, stripped them of their clothes, and sent them back to the friary in this sorry plight.[1]

This incident, however, aroused no prejudice against the Scottish Franciscans in the mind of the soldier king. On the contrary, towards the close of his reign the Bruce gave practical proof of his appreciation for their work, distinct from that of the Dominicans or the Carmelites, by founding the Friary at Lanark and by granting a yearly annuity of twenty merks from his Exchequer to each of their six friaries, a generous allowance to a Mendicant community at a time when the chalder of wheat was worth two merks.[2] For two and a half centuries this donation appears in the records of the Exchequer as the "Alms of King Robert I."; and the papal sanction to the Friary at Lanark was granted seventeen years after his death,

[1] Theiner, pp. 203–7; *Fœdera*, II. 351; *Cal. Pap. Reg. Letters*, II. 420.
[2] *Exch. Rolls*, I. 217.

in reply to the petition of David II. and his Queen Joan, who testified that the Grey Friars had suffered more severely than the other Orders during the War of Independence,[1] and that they, the petitioners, desired also to gift the site of another friary "far removed from the attacks of enemies." This, the first bull granted to a Mendicant Order in Scotland in accordance with the *Cum ex eo* of Boniface VIII., was couched in these terms—

> "To our beloved sons, the Vicar of the Minister General and the Friars of the Order of Minors in the Vicariate of Scotland.
>
> Amongst the other Orders, etc. Considering that—as we learn—Robert of glorious memory, ancestor of the noble David, King of Scotland, our dearest son in Christ, while he was yet occupied with worldly affairs, proffered and granted to you a certain site in the town of Lanark, in the diocese of Glasgow, and that your Order throughout the whole Kingdom of Scotland is situated within three dioceses and no more, and that furthermore it has been oppressed by the tyranny of wars more than the other Orders have been: We, desirous of extending our favour herein to you and to that Order, out of consideration for the said King David and our dearest daughter in Christ, Joan, Queen of Scots, his spouse, and their humble supplications to us herein, and being favourably disposed towards your supplications, grant to you and your said Order by these presents full and free permission to accept the foresaid site proffered and granted to you by King Robert, as aforesaid, *as also another site far removed from the attack of enemies*, to be granted to you and that Order by the said King David and Queen Joan or their procurators, so long as these sites are suitable for this purpose, and so long as there may be in either of them, for the time, twelve friars of that Order, worthy of sustenance, dwelling therein decorously and fitly, and to construct and maintain on whichsoever of the said two sites you choose a church or oratory with belfry and bells and burial ground, and other necessary buildings, without prejudice nevertheless to the parish churches of the said places and other rights to the contrary in whomsoever vested; the decreets of Pope Boniface VIII., our predecessor of happy memory, and others to the contrary notwithstanding. Given at Avignon 29 November, year 5."[2]

An instance of felonious appropriation of books by an ex-friar and two apostates illustrates that the Scottish Franciscans were bookmen as well as evangelists, and that they had followed the example of their brethren in other countries by acquiring

[1] *Vide* attitude of Edward I. towards the Scottish Franciscans, *supra*, p. 20.
[2] *B. F.*, VI. No. 192; *A. M.*, VII. 338, No. 26; *Cal. Pap. Reg. Letters*, III. 231.

at least the nucleus of a library in each of their friaries. In the course of the year 1331, a friar of Roxburgh, Adam Hamilton by name, obtained papal sanction to exchange the Franciscan for the Cistercian habit,[1] and thereafter entered the Abbey of Kelso. Tempted by his glowing accounts of the contents of the Friaries at Roxburgh and Berwick, the monks urged him to despoil his former associates of all their "bibles, chalices, ornaments and other sacred books," and this ignoble feat was successfully accomplished under the cover of night, with the assistance of two other apostate friars—Thomas de Irwy and Adam de Adington. Although the Abbey of Kelso was the most powerful monastery in the kingdom, at this time, the humble sons of St. Francis, through their Cardinal Protector at Rome, immediately laid their demand for redress before His Holiness, John XXII, who directed the following mandate to the Bishop of St. Andrews, requiring him to procure the restitution of the stolen goods and to "correct" the Abbot of Kelso, his monks and the renegade friars—

1332, 8*th June*, AVIGNON.

"To the Bishop of St. Andrews,

From the bitter complaint of our dear sons, the Wardens and communities of the Friars Minor of Berwick and Roxburgh, in your diocese of St. Andrews and in that of Glasgow, it has lately come to our knowledge that Adam Hanuple, Thomas de Irwy and Adam de Adington, formerly residing there under the vows of the said Order, at the suggestion and instigation of William de Dalgernot, Abbot of the community of the monastery of Kelso, of the Order of St. Benedict in your diocese, as apostates of the said Order of Minors turned to evil ways under the influence of the devil, laid sacrilegious hands upon the bibles and other books, chalices, ornaments and other sacred books, and wrongfully carried them off from the churches and convents; and that, by thus removing a part thereof to the foresaid monastery and handing them over to the keeping as well of the foresaid Abbot as of certain monks of the foresaid monastery, they offended the Divine Majesty, and caused no small prejudice and trouble to the foresaid Wardens and Chapters. Therefore, since the foresaid Wardens and Chapters have humbly entreated us to deign to afford them a fitting remedy herein, We, unwilling to fail them in justice, in which we owe a debt to all, by our apostolic rescript directed to your fraternity, command that you shall inquire into the truth of the above and every-

[1] *Cal. Pap. Reg. Letters*, II. 366.

thing cognate thereto, summarily, fully, without summons and formal process, and that you shall cause immediate restitution to be made to them of those things which you shall find to have been removed and carried off from the churches and houses of the foresaid Friars Minor by the said Adam, Thomas and Adam, or their accomplices as aforesaid is; whereto, in virtue of our authority, and without right of appeal to us, you shall compel the said Thomas, Adam and Adam, as also the Abbot and monks above mentioned and others in whose hands you know the things are; and you shall correct the foresaid excesses according to justice; notwithstanding, etc. But our intention is, that on this account the exemptions and other privileges of the said monastery shall in no way be infringed. Given at Avignon, 6 Ides of June in the 16th year."[1]

Although St. Francis had discouraged the pursuit of learning among his followers, the future members of the Order markedly developed that propensity for the acquisition of books which aroused his ire against the novice who desired to become the possessor of a breviary.[2] Their experience as preachers, together with the example shown by the Black Friars, convinced the Franciscans that study, and the possession of books to that end, were essential.[3] As early as 1260, anxious provision was made by the Chapter General held at Narbonne for the management of their conventual libraries that had been acquired by gift, purchase, testamentary bequest or inheritance;[4] and the practical experience in the use and management of books, gained during three-quarters of a century subsequent to this codification, was consolidated in the *Redemptor noster* of Benedict XII.,[5] which urged them to aim at acquiring duplicates, or even triplicates, of books dealing with grammar, logic, philosophy and theology. In the actual management of their libraries, they were directed to keep registers in which all distributions of books were to be entered. Within one month of his

[1] *Ex gravi*, 8th June 1332; *A. M.*, VII. 135, No. 10; *Cal. Pap. Reg. Letters*, II. 503.

[2] *Speculum Perfectionis*, cap. II.; ed. M. Paul Sabatier.

[3] Advice of Cardinal Bonaventura to the Order, *infra*, p. 424.

[4] *Bonaventurae Opera*, VIII. 457; ed. Ad Claras Aquas, 1891–1902.

[5] 28th November 1336. This constitution could not have reached Scotland before the end of 1337, as it was read in the Chapter General at Aquitaine in that year, and thereafter directed to be sent to the various provinces. *A. M.*, VII. 204, No. 3.

election, the Warden was bound to compile an inventory of the books under his charge; and it was further ordained that this record, renewed and brought up to date, should be read aloud once a year in presence of the whole Chapter, the books themselves being exhibited at the same time. The inventories compiled by the Scots friars in accordance with this constitution, or with the Statutes of Barcelona,[1] have long since disappeared, and it is only in the case of the Friary in Stirling that we have any knowledge of the names of the books in their possession.[2]

Another clause of this liberal constitution related to the permissible mode of accepting a gift or legacy offered to an individual friar, and forms an excellent example of intellectual, as opposed to conscientious, observance of the text of the Rule. The precept was absolute: the friar might appropriate nothing to himself. Common ownership on the part of the Order was as strenuously denied; and, yet, the use or possession of books was a privilege which they could not gainsay themselves for the best of all reasons. The friar donee was accordingly directed to inform his Superior of the windfall at once; while the correlative duty of the Superior, if the friar were a man of ability, was to devote the gift or legacy to the purchase of books for him, or to make other suitable provision for the furtherance of his studies. Books thus remained a besetting weakness of the Franciscans in relation to their vow of expropriation; but it can scarcely be raised to the rank of a moral delict. An interesting case in this aspect—illustrative of the scholarship aimed at by the friars and also of the difficulties under which they laboured in its pursuit—is that of Friar Thomas Rossy, already referred to.[3] His studies in the seven liberal arts and theology are said to have been pursued at various Universities; and, in 1373, on the petition of the Kings of France and Scotland, he was appointed by the Chancellor

[1] *M. F.*, II. 117.

[2] *Infra*, p. 369. The inventories compiled at Assisi in 1380 are admirable examples of the care which the Franciscans bestowed on the management of their libraries—"that the books may not be lost, but above all preserved in the future." *Archiv für Litteratur*, I. 308, 490, 492, 493.

[3] *Supra*, p. 15.

to deliver the summer lectures on the Sentences in the University of Paris.[1] About the same time, he responded to the questions in theology and graduated as Bachelor of Paris, returning to Scotland in 1374 on account of the duties of his office and want of money — *expensarum defectu* — without the honour of Master of Theology with license to teach in that faculty. The authorities, however, took a favourable view of his case; and, in accordance with a papal mandate of 1375 authorising William, Bishop of Glasgow, to confer the degree after due examination,[2] he was admitted to the Parisian Mastership on 23rd October of that year.[3]

This is a trite example of the manner in which the Franciscan preserved his distinctive characteristic at the centres of learning. If we read between the lines, he was essentially the poor student; and, when the friary is substituted for the country manse, he suggests a comparison with his protestant brother of later centuries straining its slender resources for the college career that was to fit him for the ministry or the liberal professions. His intellect was his single asset — our admiration for the Carlylean type is instinctive—and Friar Rossy was far from being the single alumnus of the Scottish Province who struggled to maintain himself at the University of Paris, returning at last to his parent friary without a degree—*expensarum defectu.* Technically, his poverty was not absolute, as required by the Rule; practically it was very real; and we are constrained to admit that the *questus pecuniae* alleged against the Franciscans by unfriendly critics might imply something else than mere love

[1] 3rd October 1371. *B. F.*, VI. No. 1149; *Cal. Pap. Reg. Letters*, IV. 164, 216. According to the custom of the Order, he had already lectured in arts and theology in his own province (*Ibid.*). In the MS. *Recueil des plus célèbres Astrologues*, F. 156 (*Fonds Français*), par Symond de Phares, written *circa* 1483–1498, there is a reference to a Scottish Franciscan: "Nostre Reverand Patrice Bernils (Bervils), natif du royaume d'Escosse et l'Ordre de Sainct François, fut en ce temps (1406), lequel estudia à Paris et fut à Losenne soubz Marende, comme aucuns dient."

[2] Theiner, *Mon. Vet. Hib. et Scot.*, p. 356; *Cal. Pap. Reg. Letters*, IV. 216.

[3] Denifle and Chatelain, *Chart. Univ. Paris*, III. No. 1372. The English Franciscans were alone exempted from attendance at the University of Paris prior to their promotion to the degree of D.D. *The Grey Friars in Oxford*, p. 35 *et seq.*

of money.[1] Thus equipped, Friar Rossy soon passed out of the restricted routine of friary life. In the first year of the Western Schism he is to be met with in the papal court at Avignon "on Church business"; and, on 15th July of the following year, in company with another Scottish churchman, Hugo de Dalmahoy, Notary to Cardinal Eustace, Clement VII. sent him back to Scotland[2] with the prospect of promotion to the See of Whithorn in Galloway. Oswald, Cistercian Prior of Glenluce, had recently been appointed to and installed in this bishopric; but Clement VII. now revoked his elevation on the ground of misrepresentation, and empowered the Bishops of Glasgow and St. Andrews to promote either Ingram, Archdeacon of Dunkeld or Thomas de Rossy in his place.[3] The former having declined the bishopric, the Franciscan met with stubborn opposition to his suit in the Scottish courts for the Prior's expulsion. Oswald interjected an appeal to the Camera at Avignon, and won a short-lived success when the cause was remitted to Cardinal Nicholas. His Holiness then took the part of the friar, whom he addressed as the Venerable Friar, Thomas, Bishop of *Candida Casa*, and remitted the case back to the Bishops of St. Andrews and Dunkeld, with instructions to expel Oswald and to promote his own alternative nominee, Friar Rossy, if satisfied as to his fitness.[4] At this juncture the case disappears from record, and, consequently, his authorship of the tract upon the Schism against "the English their neighbours" remains dependent upon the success which attended his pleadings before the Scottish Bishops. The Index of Promotions[5] for this period seems, however, to indicate that Rossy retained his See until 1406; and, in that case, he is the only Scottish Grey Friar who is known to have been either selected for or raised to the rank of Bishop.[6]

[1] Cf. Roger Bacon's interpretation of the Rule, *infra*, p. 41; and Mr. A. G. Little's account of the heavy expenditure by a candidate for a degree, *The Grey Friars in Oxford*, pp. 50, 51.

[2] *B. F.*, VII. No. 585; ed. note. They received 30 and 100 florins respectively from the Camera for their expenses going to and returning from Scotland.

[3] *B. F.*, VII. Nos. 585, 625. [4] *Justa pastoralis*, 29th October 1381.

[5] *B. F.*, VII.

[6] Under the year 1455 Wadding hazards a guess that Friar Thomas Burton, professor of sacred theology in the island and monastery of St. Columba, was a

On the other hand, the Bishop of Galloway remained a suffragan of York until the year 1491, and it is, therefore, possible that Francis Ramsay, who is recorded in *Keith's Catalogue*[1] as occupying the See of Whithorn from 1373 to 1402, was the unsuccessful nominee of the Roman Pope. Some years later, the Romanist Adrian VI. also interfered unsuccessfully in the appointment of a successor to Walter Wardlaw[2] in the bishopric of Glasgow. Adrian VI. intimated that the selection of his successor "should be specially reserved to our choice and appointment"; and Boniface IX., after the bishop's death, issued a commission, dated 1st March 1390–91, in favour of John Framysden, an English Grey Friar.[3] This appointment was naturally disregarded by the Scots, whereupon the ambitious son of St. Francis appealed to Richard II., and demanded either that a patent should be issued to the English wardens on the borders to instal him in the bishopric, "as well spirituality as temporality," or that means should be provided whereby he could live in a manner befitting his rank.[4] The petition was presented to the king by one of his favourites, William le Scrope (afterwards Earl of Wiltshire), and remitted to the Council. Ultimately provision was made for the friar's wants, as he appears as a suffragan of London in 1393, and of Sarum in 1396.[5] This was the second and last attempt to intrude an English Franciscan into a Scottish bishopric.

Returning to the year 1332, the endeavour of Edward

Franciscan. He was elevated to a bishopric in this year; but the Franciscans had no ascertainable connection with Iona. *A. M.*, XII. 300.

[1] Edition Russel, 1824, p. 572.

[2] He was created Cardinal in 1381 by Clement VII., being one of the few Scottish prelates who attained to that dignity.

[3] *B. F.*, VII. No. 55; *Cal. Pap. Reg. Letters*, IV. 383; *Reg. Episc. Glasguensis*, I. xl.

[4] *Reg. Privy Council* (England), I. 95, Sir H. Nicholas.

[5] Stubbs' *Reg. Sacr. Angl.*, 1897, p. 197. Friar Framysden was evidently aware of the successful issue in 1388 of a similar appeal by another Englishman to be appointed Vicar of the Church of St. James in the burgh of Roxburgh, then in the possession of the English. In his mandamus Richard II. declared that he granted the petition because the diocesan (Glasgow), spurning the path of the Catholic faith, was a schismatic and the king's enemy and a rebel, and was obstinately adhering to his adversary of Scotland, and to that child of perdition the anti-pope, Clement. *Rot. Scot.*, II. 93.

Balliol to secure the throne by the assistance of Edward III. once more threw the country into a state of war. The castle of Berwick was hastily put into a state of defence, for which the governor requisitioned 535 *eastland boards*[1] belonging to the Friary at Roxburgh, along with 240 other boards which had been intended for the repair of its roof. Pope John XXII., who was meditating another crusade, became seriously alarmed at the prospect of an outbreak of war between the two countries, and despatched Gerard, the Minister General of the Grey Friars, along with a Black Friar, to interview King David. On their arrival in Paris, the legates learned from the Scots procurators that David had left Scotland; and, as their mission "for the good of Christendom and the prevention of bloodshed" could not be further proceeded with, they were shortly afterwards recalled by His Holiness.[2] Hostilities commenced, and the disastrous result of the battle of Halidon Hill led to the surrender of the town and castle of Berwick to the English in 1333. To certain of its religious houses — that of St. Mary Magdalene, the Domus Dei and others—Edward III. granted letters of protection; but towards the Grey Friars and the other mendicant Orders established in the district, who made no secret of their strong Scottish sympathies, a drastic policy was adopted. The instructions[3] addressed to the English Provincial for the expulsion of the Scots Grey Friars from Berwick are a remarkable testimony to their intense patriotism, and to the influence of their preaching upon the popular mind:

> "The King, to his beloved in Christ, the Provincial Minister of the Order of Friars Minor in England, greeting. We, having considered the countless ills, which, through the procurement of the author of all evil, have fallen upon the peoples of England and Scotland through the long continued inconveniences of war (due, as we learn, in no small measure to the preaching of certain religious Mendicants of the Scottish nation, who, under a fictitious cloak of sanctity, encouraged the Scots in their

[1] *Exch. Rolls*, I. 411. These were timber planks imported from the shores of the Baltic.

[2] *A. M.*, VII. 131, 132, 133, 145, 146; *Cal. Pap. Reg. Letters*, II. 511.

[3] *Rot. Scot.*, I. 258. The order to the English military governor of Berwick was couched in similar terms.

tyranny) have gladly inquired into the means by which the source of this malice and disorder may be removed, and a firm love and peace flourish between the foresaid nations. After full deliberation hereupon with men of experience, the most expedient course appears to be that all your Scottish brethren dwelling in our town and county of Berwick should, meanwhile, be sent into the houses of your Order in England, so that, with a change of residence, may come a change of spirit; and that there be put in their places wise and capable English friars, who, by their salutary ministrations, may instruct the people, win them to our allegiance and affection, and, under the guidance of God, implant a true friendship between the nations. Wherefore, we earnestly entreat you, and, for the public weal, desire that this be done, and we command that you send to Scotland with all speed certain of your English brethren, men of good repute, prudence and skill (whom, in view of the character of the persons, times and places, you shall find specially suited to the office), to dwell in the houses of your Order for the time, there to preach, and, under the guidance of the Lord, to bring forth the abundant fruits of truth and love; and that you *place your Scottish brethren who dwell within the said town and county in the houses of your Order in England beyond the Trent, individually in separate houses*, so that, with your kind treatment of them, the cause of their maligning will cease, and, overcome by this manifestation of your brotherly affection, they will learn to love those whom they now hate. And this, as you respect the honour and welfare of your Order, in nowise neglect. In presence of the King at Knaresburgh, 10th August 1333."

The English Franciscan of Carlisle who wrote the *Lanercost Chronicle* thus invidiously comments on the behaviour of his brethren in Berwick on the eve of their banishment—

"But, because the religious men of the town had much offended the king in the time of the siege, all those of Scottish origin were expelled by his command and Englishmen were introduced in their place. It is to be remembered that, when it behoved them to leave the convent at Berwick and two English friars were brought in to replace them, the Scottish friars prepared for them a good breakfast. During the meal some entertained the English friars in comfort and familiar talk, whilst the others broke into the storehouse, gathered together all the books, chalices and vestments, and bound them up in silken and other cloths, alleging that all those things were the deposits of the lord, Earl Patrick."[1]

The friars would therefore appear to have recovered their possessions in accordance with the mandate of John XXII.,[2] and they doubtless returned to their own country in pre-

[1] *Lanercost Chronicle*, p. 275.

[2] *Ex gravi*; *supra*, pp. 27, 28.

ference to submitting to the peaceful persuasion of their brethren beyond the Trent.

After this incident the annual bounties to the Franciscans of Berwick from the Scottish Exchequer naturally ceased; and their English successors found it necessary to apply to Edward III. for payment of the "old alms" of twenty merks, which had been sanctioned by the Bruce.[1] Although repeatedly taken, Berwick never subsequently remained long enough in the possession of Scotland to warrant it being considered otherwise thanas a military post; and its friary, therefore, passes out of the history of the Scottish Franciscans at this date.

In 1339 Edward Balliol left Scotland, and among the minor patriots who won distinction in the task of recapturing the strongholds was the well-known Grey Friar, John the Carpenter, a man of high skill in the manufacture and use of military engines. Although a man of peace, Friar John rendered yeoman service in the defence of Dumbarton Castle, with the result that the Governor retained his services for the nation in return for an annual pension of twenty pounds. David II. ratified his lieutenant's promise in the following precept under the Privy Seal:—

> "David, by the grace of God, . . . To all men, . . . Whereas Malcolm Fleming, knight, our beloved and trusty foster-son and keeper of our Castle of Dumbarton, with prudent fore-thought for our royal welfare, has, in our name by his letters patent, in terms of a certain agreement, faithfully promised to Friar John the Carpenter, of the Order of Friars Minor, for his skill and services as well within our foresaid castle as without wherever we shall be pleased to ordain, that he shall be faithfully paid the sum of twenty pounds sterling of annual pension for all the term of the life of the said Friar John. . . . The King, considering the good deserts of the said Friar John, confirms the aforesaid pension and grants that it be paid out of both his royal rents of the burgh of Inverkeithing and the great customs uplifted there; and we will that the said Friar John be preferred in the payment of this annual pension before all other grants and our own grants there. Wherefore, as well to the provosts of the aforesaid burgh as to the collectors of our

[1] Robert de Inghale, Chamberlain of Berwick-on-Tweed, was ordered (4th March 1339) to pay twenty merks yearly to the Friars Minor there, which sum they were wont to receive as alms from the Kings of Scotland. *Fœdera*, II. ii. 1075.

> new customs there, we straitly command that they make payment to the said Friar John. . . . And what in respect hereof they set down in their annual accounts we will that it be allowed to them. In testimony whereof we have made these our letters patent to him."[1]

In the Roll of 1342 the name of Friar John accordingly appears as a recipient of the sum of £13, 6s. 8d.—twenty merks—*pro artificio suo et labore*.[2] We are in ignorance of the friary to which he belonged; but he certainly was not, as Spottiswood and others allege, an inmate of the Friary at Kirkcudbright, which was not erected until the year 1455–56.[3] The precept for his pension was directed to the collectors of the new customs of Inverkeithing; and it is only a coincidence that the seventh Conventual Friary was founded there in or about the year 1384. It may be surmised that this friary was originally a habitaculum colonised by some of the friars from Dundee, who had settled in the town and occupied a tenement gifted to them by some unknown donor. A ferm or tax of 2s. 4d. was annually paid to the royal exchequer for this house until the year 1384,[4] when, in virtue of the authority contained in the Bull of 1346, the informal settlement was converted into a regular friary by Robert II., who carried out the intentions of King David by remitting the payment of his ferm—"so that the said tenement is otherwise free from all payment of this pension and from all secular burdens whatsoever."[5] The eighth and last Conventual Friary was erected by James II. in the royal burgh of Kirkcudbright in or about the year 1455; and, from the entry of 12th July 1458, we learn that the bailies of Kirkcudbright paid to "the Friars Minor of the said burgh newly founded by the present king £6, 13s. 4d., in part payment of £10 granted by him to them."[6] Owing to a misreading of the entry in the English Wardrobe Accounts[7]—that Edward I. placed an oblation on the altar of the Priory of Kirkcudbright—this foundation has been attributed

[1] Transcript *Harleian MSS.*, 4628, f. 68; *infra*, II. p. 166; Robertson's Index, 41. "John, Carpenter, of ane pension during his lifetime." The writ itself has not been recorded in the Register of the Privy Seal.

[2] *Exch. Rolls*, I. 510.

[3] *Infra*, note 6.

[4] 1364, *per incuriam*, in print of *Exch. Rolls*, III. 127.

[5] *Ibid.*

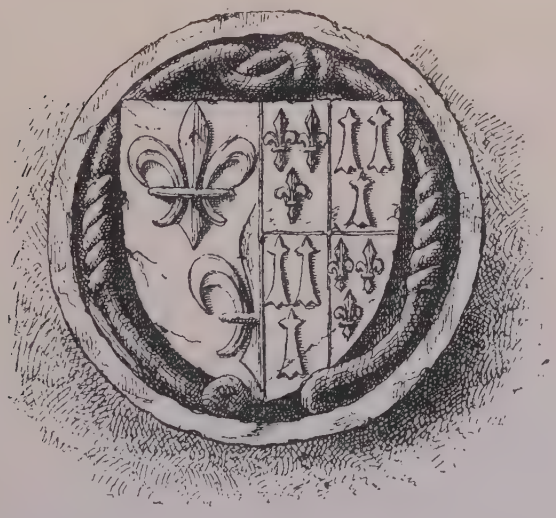
[6] *Vide* also entries of 20th August 1465 and 21st July 1466, *ibid.*

[7] p. 41.

to the thirteenth century by Dr. John Stuart[1] and other writers; but it need hardly be insisted that the Priory there referred to was that situated on St. Mary's Isle, especially as this friary was not one of those which petitioned Edward I. in 1297, and does not appear either in the Provinciale or in any of the enumerations compiled by Lucas Wadding.

Meanwhile internal dissension had rent the whole fraternity in twain. The ideal life of poverty with all its privations—the keynote of the Franciscan movement—had been tested by the experience of more than two centuries, and had received various interpretations at the hands of the friars. While some strove to carry out the Franciscan theory of life in all its severity, others adopted certain relaxations of the Rule for which they had sought and obtained papal sanction. These two sections became known as the Observatines and the Conventuals; so that before pursuing their history in Scotland it may be profitable to consider the main characteristics of the controversy which terminated in their formal separation.

[1] *Hist. MSS. Commission*, p. 539, Fourth Report; *infra*, p. 252.



The Franciscan Cordelière encircling the arms of France and Brittany, carved on the keystone of an arch, Château d'Amboise.

CHAPTER II

RISE OF THE OBSERVATINES

The origin of the Observatine movement—Distinction between clerical and lay brothers—Conflict between theory and practice—Franciscan heresies—Persecution of the Spirituals — Spiritual autonomy and its revocation — Re-establishment at Brogliano—Friars John of Vallée, Gentile de Spoleto and Pauluccio—Conformity of the Observatines—Recognition by the Council of Constance — Organisation — Province of Cologne — Observatine mission to Scotland.

THE rise of the Observatines, or evolution of a rational observance of the Rule formulated by St. Francis, presents a perplexing conflict of principles during the first two centuries of Franciscan history. It is one of many phases which will lead the observer far into the realms of doctrine as well as of Franciscan discipline; and, in the end, it resolves itself into a moral conflict between the ordination vow of the friar and the dispensative authority vested in the Holy See, complicated by that dangerous and heretical hydra—the authority of the Testament of St. Francis.[1] The impracticability of complete observance of the Rule is now a matter of general agreement; and the Testament, while purporting to be explicative of it, vetoed recourse to Rome, thereby affording an apparent contradiction with the administration of St. Francis himself from 1217 until 1226. Practical concessions had been made during this pathetic duel between sentiment and common sense; and the gradual transition from pure idealism is easily discernible in the issue of the "explicit approbation" of 1219, in the Rule of 1223, in the recognition and employment of friar confessors, in the informal institution and use of procurators, and in the griefs of the Saint arising out of the incipient reaction against total

[1] *Seraphicae Legislationis*, T.O., pp. 265-272, abrogated by the *Quo elongati* of Gregory IX.; *infra*, II. pp. 390, 397.

abnegation and detachment. That is to say, the well-defined controversies concerning papal support against the secular clergy, the spread of sacerdotalism as a natural corollary to expansion, and the theory of poverty as the basis of organisation, were actively present during the infancy of the Order, and were acquiesced in by St. Francis himself. But his Testament swept away this nascent possibility of compromise, and focused the attention of thinking men upon the disabilities arising out of a Franciscan, as opposed to an ecclesiastical, conscience, and the impediments which this distinction placed in the way of their legitimate expansion and consolidation as an Order of the Church. The flood-tide of enthusiasm among the faithful was rapidly effecting the diffusion of Franciscanism over the whole of Europe, and the sanctity of the hermitage or friary had already taken a powerful hold upon the laity, raising a galaxy of problems concerning the crucial and practical question of voluntary support, seeing that Franciscanism neither possessed an exchequer nor received State aid. On the other hand, the ebb-tide of clerical reaction continued to threaten the repression of the movement so long as the friar missionary maintained an attitude of absolute submission towards the churchman, who regarded him as an inconvenient assistant and did not scruple to expel him from the parish or diocese. At the meeting of these tides stood the friar, adjured to supplement the work of the clergy, but fettered in his task by the Franciscan ideal which forbade him to accept the assistance and protection proffered by the enlightened liberalism of the Holy See.[1] The Order was thus confronted with a problem which precluded all possibility of compromise, inasmuch as authoritative modification of the Rule was inconsistent with complete obedience to the Testament. Controversy at once invaded this young society of idealists. "Autonomy of conscience"[2] entered upon the long struggle with conformity, and the year 1230[3] witnessed the official subordination of the Testament that had forbidden glossation of the Rule and the acceptance of apostolic privileges under any pretext whatever. Friar Leo and Friar

[1] *Vide* chapter XI., *Preaching, Confession and Burial.*

[2] M. Paul Sabatier.

[3] *Quo elongati.*

Elias personified the opposing principles in this schism, in which the uncompromising supporters of seraphic poverty suffered severely under the intolerance and persecution of Elias and his party. For the moment, the line of demarcation was clear and well defined; but the influence of environment and ecclesiastical tradition soon effected a further subdivision among those who claimed to be the representatives of St. Francis. Haymo of Faversham and those who accomplished the downfall of the Elian autocracy, in their turn, impinged upon the primitive simplicity by emphasising the distinction between laymen and clerics within the Order.[1] The fraternity was irrevocably divided into learned and unlearned friars; and the fetish of theology, the product of knowledge, found support from the devout Spiritual, who maintained that laxity of observance proceeded from the ignorance of the lay brother.[2] Nevertheless, technical observance of the Rule precluded all possibility of an educational system extending from the Friary to the University; and the only clear distinction lay between subjective and objective observance, as there were few who could logically claim to observe the precepts of 1223 in their entirety. Thus, even the devout Spiritual, John of Parma, betrayed his Master (who abhorred scholasticism) when he complained against the Mendicant bishop who carried off to the episcopal palace the books which he ought to have returned to the library of his friary.[3] Again, although he maintained the inviolability of the Rule and Testament, by his contention that the privileges and declarations granted by the Holy See were powerless to absolve the friar from his vows, he gave a graphic illustration of the contradiction between theory and practice in his eloquent appreciation of the observance in the English Province, where the friars made free use of the services of procurators.[4]

[1] The directions given by St. Francis concerning divine worship in the Portiuncula show how completely he himself was bound by ecclesiastical tradition, and foreshadowed this division of the fraternity (*Speculum Perfectionis*, cap. 55): "Let clerks be chosen of the better and more holy and more honourable of the brethren . . . to say the Office. . . . And of the lay brethren, let holy men and discreet, humble and honourable be chosen to wait upon them." This distinction was perpetuated by the Narbonne constitution, *Nullus ascendat de laicatu.*

[2] *e.g.* Friar Salimbene. [3] *Vide* Constitutions, *infra*, p. 440, n. 2.

[4] *M. F.*, Vol. II., "The Chronicle of the English Grey Friars," *passim.*

Berthold of Ratisbon, the representative of a more logical phase of Spiritual thought, illustrates the attitude of yet another faction, known at a later date as the unorthodox Spirituals. In common with John of Parma, and those imbued with the leaven of Joachism, Friar Berthold maintained the supreme authority of the Rule; but he inveighed against knowledge as the reason why so many failed to attain the state of perfect grace, and satirised the un-Spartan character of the decadent Conventual friar of his day.[1] In contradistinction to the satire of this extremist, we have the condemnation of the average friar from the pen of the subjectivist Friar Roger Bacon,[2] who also lamented the decadence of practical Franciscanism in the life of the individual friar; while he himself acquiesced in the broad lines of Franciscan evolution. As a scientist, he longed for the abolition of the jurists from the Church, and the resulting elevation of philosophy. Only then would the régime of the Church become glorious and in harmony with its true dignity; princes and lords would give benefices and riches to professors, and studious men would have provision for life and leisure for the pursuits of science.[3] To this great luminary Clement IV. appeared as the Mycenas, rendering possible that which had been impossible through poverty, rather than as the degrader of the Franciscan ideal. And, when the opportunity of perpetuating his ideas presented itself, practical modification of the Rule had already begotten a state of conscience that took no heed of the provenance of the parchment, the payment of the scribes, or other material considerations which would have harassed Friar Leo or Friar Berthold. In short, there was no perfect Spiritual; and although mutual intolerance and persecution held sway for the sake of principles, the real quarrel was with the friar who accepted greater relaxations than the subjectivist would admit. For

[1] The gravity of Friar Berthold's treason to St. Francis lay in his conception of the ideal religious life, that contemplative was preferable to active Christianity, and that the salvation of his own soul was the primary duty of the friar. *Sermones*, p. 29.

[2] *Compendium Studii Philosophiae* (R. S.), p. 399, op. Rog. Bacon.

[3] *Ibid.* p. xviii.

a brief space during the Generalship of Bonaventura, the victory of moderation seemed possible, at a crisis when a friar might be a good churchman although an unworthy Franciscan. The primary condition of unity was the effacement of this distinction; and accordingly Bonaventura categorically asserted the conformity of the Order with the Church by affirming the validity of papal interpretation of the Rule, which had not as yet received the official impress of divinity. The equivocal premises of the extreme Spiritual position, as well as the possibility of Spiritual disobedience to the Church under the cloak of obedience to St. Francis, were thus swept away. In return, the increasing laxity of observance among the Conventuals was condemned in the most absolute terms, and a semblance of their primitive simplicity was restored, so far as a code could effect that purpose.[1] "Sanscullotism, Anarchy of the Jean Jacques Evangel, having got deep enough, is to perish in a singular new system of Cullotism and arrangement."[2] Union and tolerance, however, were as yet unattainable; and discord and persecution regained their sway in spite of the *Exiit* which, at once, reconciled intellect with conscience among the orthodox friars, and strengthened the position of the unorthodox by recognising the divine origin of the Rule. The attenuated Spiritual cloak thus assumed a definite position in the controversy, which it maintained for more than fifty years to the detriment of orthodox reformation in observance. During this period, the permissible degree of relaxation constituted the subject matter of the main controversy, in which the Conventuals were rapidly losing ground. Persecution at their hands won many adherents to the cause of reform, with the result that the brief pontificate of Celestine V. witnessed the first authorised secession from the Order by a small colony of Spirituals, who had been referred to His Holiness for guidance by Raymond Gaufridi, their Minister General. This band of zealots was released from obedience to their Conventual Superiors, and, under the leadership of Friar Liberato, they were accorded the privilege of observing strictly

[1] *Narbonne Constitutions, passim*; *Bonaventurae Op.*, VIII. 449–467.
[2] Carlyle, *French Revolution.*

the Rule and Testament of St. Francis, *absque nomine fratrum minorum.*[1] This modification of the vow of obedience is as significant of the changed Spiritual attitude towards the Rule and the ordination vows, as the qualifications attached to their liberation are significant of the gravity of the crisis that had arisen out of the dual authority called into existence by the Testament. Moreover, it was the first step towards the curtailment of Conventual absolutism which had been so freely employed in suppressing the recalcitrants, who, while they appealed to the life and Rule of St. Francis in justification of their views, suffered imprisonment in accordance with his testamentary injunction.[2] The sanction to this secession was withdrawn by Boniface VIII., and the colony retired to the further shore of the Adriatic, which they ultimately quitted for the March of Ancona under the designation of Clarenes and the leadership of Angelo da Clareno.[3] The customary suspicion of heresy, however, continued to harass the peace of these zealots in discipline until the orthodoxy of their leader was explicitly affirmed by a commission of examination;[4] and their secession was followed by another during the Generalship of Friar Alessandro (1313), who fostered the rise of the pure Observance by authorising a Spiritual settlement in the convents of Narbonne, Beziers and Carcassone under Superiors in sympathy with their ascetic longings. These secessions were particular manifestations of a widespread spirit of discontent in the Order, arising out of Conventual intolerance, and of the desire for a definite subdivision of the Order which would permit the individual friar to embrace unmolested either the strict or the modified observance of the Rule. The support which the orthodox Spiritual propaganda received from the laity could not be ignored; and the Curia assured a free and impartial exposition of grievances under the commission in which Friar Ubertino joined issue with Bonagrazia, then Minister General, under the arbitration of Clement V.[5] The validity of papal

[1] *Archiv für Litteratur*, I. 525–526.
[2] Imprisonment for heresy and certain forms of disobedience.
[3] *A. M.*, VI. 12, No. 8, 1302.
[4] *Ibid.* VI. 89–90, Nos. 2–4, 1307.
[5] *Ibid.* VI. 168–171, No. 3, 1310.

interpretation was left untouched, and a direct appeal was made to the lives and customs of the friars of the golden age. This line of attack, as well as the severity of the indictment, defeated the purpose of the Zelanti, seeing that it constituted a definite impeachment of official administration. Nevertheless, Friar Ubertino, in his lurid picture of a mutilated Franciscanism, presented an unanswerable case for reform, if not also complete proof of incompatibility between the two parties. Unity of action and unity of purpose, however, had no place in the Spiritual camp, and the wisdom of Jean Olivi, in desiring to curb the indiscreet zeal of the extreme Spirituals, was fully justified by the secession of the Italian faction at this critical juncture, when formal disjunction probably hung in the balance. Ubertino's success was thus confined to securing a condemnation of existing abuses and undue relaxation of the Rule;[1] but his propaganda also won the support of earnest Conventuals, whose sympathy with reform was assured provided obedience and the unity of the Order were preserved.[2] It is difficult to underestimate the moral effect of this partial success which foreshadowed the final victory of the strict Observance, and definitely dissociated the propaganda of the orthodox Spirituals (who were striving after a practical realisation of Franciscan discipline) from those who had lapsed into the indefinite realm of heresy as a result of their attack upon the dispensative authority of the Holy See. The severest crisis was now imminent. The doubtful premises of the authority of the Testament, developed under the influence of the fictitious Joachism manifest in the Everlasting Gospel, had reached its logical conclusion in the establishment of the secession church by the heretical Spirituals, who were condemned by John XXII. in the *Quorundam exigit*, *Sancta Romana*, and *Gloriosam Ecclesiam*.[3] But concurrently with the defeat of this unorthodox faction, official Franciscanism was momentarily brought into conflict with the Curia, when His Holiness exemplified the real meaning of papal interpretation by arbitrarily abrogating the vow of poverty, as it had been defined by his

[1] *Exivi, infra*, II. p. 421.
[2] *e.g.* Michele da Cesena.
[3] 7th October 1317; 30th December 1317; 23rd January 1318.

predecessors. The *Ad conditorem*, and its correlative constitutions, created the friars civil owners of their movable property, and thereby brought Franciscan theory and practice to a deadlock. However remiss the Conventual friar might have been in observing the lofty precepts of his founder, he could not acquiesce in this legal vandalism, which not only brushed aside the disconcerting inconsistencies of the traditional observance sanctioned by the *Exiit* and the *Exivi*—as many were anxious to effect—but even precluded the possibility of observing the vow of poverty and maintaining the organisation of the Order. It is certain that the *amor habendi* had permeated the Order to such an extent that this legislation would not have created a state of things differing materially from that which had prevailed at the close of the thirteenth century. But the theoretical tenet of Franciscanism was in danger, and the Order rallied in support of it. For fifteen years the controversy continued unabated, until John XXII. abandoned his position in 1331, and ordered the Provincials in public consistory to obey the provisions of the *Exiit* in all questions relating to discipline.[1] Three years later the Minister General, whom he had forced upon the Order in place of Michele da Cesena, granted Friar John of Vallée and four others permission to occupy the friary at Brogliano in Umbria, and to observe the Rule of St. Francis in its entirety.[2] During the rest of his life Friar John devoted himself to the leavening of the province in the face of the many difficulties raised by its Conventual Superiors; and a just estimate of his success is furnished in the Bull of Clement VI.[3] which authorised his lay associate and successor, Gentile de Spoleto, to observe the Rule in its primitive simplicity in four friaries, and absolved these Observatine colonies from obedience to the Conventuals. It was, however, a short-lived autonomy. Their opponents perceived in the mountain settlements a refuge for every friar opposed to the lax régime,[4] and meditated an attack upon them in the papal court on the grounds

[1] *B. F.*, V. No. 921.
[2] *A. M.*, VII. 168, No. 24.
[3] *Bonorum operum*, 13th December 1350.
[4] *Chron. XXIV. Generalium*; *A. F.*, III. 547.

of observance and the danger of schism.[1] More prudent counsels prevailed. The affinity of the Spiritual and the Fraticelli was revived in the charge of receiving heretics into their midst; whereupon Innocent VI. (1355) withdrew the privilege of exemption, placed the Observatines again under the obedience of the Provincial Ministers, and acquiesced in the imprisonment of the devout Gentile.[2] In spite of this repression, Friar Pauletto or Pauluccio, a pupil of Gentile, obtained the Minister General's permission in 1368 to re-establish literal observance of the Rule in the same friary at Brogliano.[3] The success of his crusade against the acceptance of any mitigation of the Rule was immediate in that region of fervid conviction which had sheltered the Fraticelli against the anathemas of the Church. Possessed of all the characteristics necessary in the leader of a great subjective movement, Friar Pauluccio immediately attracted the attention of the Pope and of the Minister General, Leonardo di Giffoni,[4] by the practical sagacity of his administration. Profiting by the experience of his predecessor, he avoided open revolt against the authority of the Provincials,[5] and precluded the possibility of repression at their hands by proclaiming his conformity in a vigorous public disquisition against the Fraticelli, in which he declared that obedience to the Pope was of greater importance than obedience to St. Francis.[6] Accordingly, in 1374, Innocent VI. recognised his position as leader of the movement by forbidding the officials of the Order to interfere with him;[7] while the Minister General authorised him to spread the Observance through the neighbouring provinces,[8] and strengthened the incipient reformation by the concession of

[1] *A. M.*, VIII. 103, No. 2, 1355.

[2] *Sedes apostolica*, 18th August 1355. For some years, writes the chronicler, the fraternity *erat una et integra*. *Archiv für Litteratur*, IV. 184.

[3] *A. M.*, VIII. 210, Nos. 11–12, 1368.

[4] He was elected in accordance with the papal rescript enjoining the friars to select one whom they knew to be favourable to the regular Observance and reformation of the Order. *B. F.*, VI. No. 1266.

[5] *A. M.*, VIII. 298, No. 20, 1374.

[6] *Ibid.* VIII. 298–300, Nos. 19–23. *Vide* dicta of John XXII. at p. 88. The houses occupied by the Fraticelli were frequently ordered to be placed at the disposition of the Observatines, *e.g. B. F.*, VII. No. 1393.

[7] *Ad nostrum*, 22nd June 1374. [8] *A. M.*, VIII. 298, No. 20, 1374.

several privileges.[1] Thus armed at every point, Pauluccio was enabled to effect the reformation of the provinces unhindered by the local authorities; and his remarkable success was recognised in 1376 when the powers of a Provincial Minister were conferred upon him,[2] and again in 1387 when he was appointed the special Commissary of the Minister General in respect of the houses under his direction.[3] These had now risen from seven to twelve in 1380,[4] including the Perugian convent of San Francesco del Monte;[5] and at his death in 1390 they numbered eighteen, along with a nunnery for the Sisters of the Third Order. The leading characteristics of this movement in Italy were repeated in varying degrees of intensity throughout Europe, meeting with the same support from the anti-popes as from the popes during the great Western Schism. Thus, under the protection of Benedict XIII. and of the pseudo-Minister General, the Observance was established in the convent of Mirabelle in Picardy,[6] and the reformation of France and Burgundy proceeded apace in the lonely friaries, whither the devotees of holy poverty had been permitted "to retire from the crowds to live according to the purity of the Rule."[7] In Spain and Portugal the movement gained ground about 1408, and its extension to the provinces of Burgundy, Savoy and Flanders, under the influence of St. Colette, completed the analogy with the Mendicant-Secular controversy of the thirteenth century. In both cases, the reform was carried onwards on a wave of popular enthusiasm which the established authority vainly endeavoured to arrest; and autonomy quickly became the touchstone of the controversy. Clearly, so long as Franciscan discipline was regulated by Conventual statutes and customs, the Observatine, who denied his brother friar the right to live more in conformity with the times by possessing landed property and other permanent sources of income, must submit to a mutilation of his propaganda. He no longer combated the validity of papal interpretation, and was concerned only in securing the privilege

[1] *A. M.*, VIII. 326, No. 43, 1375. [2] *Ibid.* VIII. 336, No. 17.
[3] *Ibid.* IX. 91, No. 2. [4] *Ibid.* IX. 41, No. 29.
[5] *Ibid.* IX. 42, No. 29. [6] *Ibid.* IX. 80, No. 5, 1388. [7] *Ibid.*

of observing the *Exiit*, which had introduced the minimum of necessary divergence from the Rule. This privilege implied the recognition of the right of the Observatine Superiors to enjoy a *de facto* independence in all that pertained to discipline; and an appeal for disjunction was therefore made to the Council of Constance by the reformed houses of France, Burgundy and Touraine. The Council viewed the petition with favour, and, on 23rd September 1415, sanctioned the election of Observatine Provincial Vicars as the Superiors of these three provinces, the Vicar General being chosen from among their number, and recognised as the specially constituted Commissary of the Minister General in respect to the petitioning friaries. Complete immunity was assured to these Superiors by an express declaration that the sentence of excommunication would be inflicted upon any Conventual who interfered with their administration;[1] while the fiction of a united Order was preserved by the proviso that the appointment of the Vicar General required the ratification of the Minister General—for which that of the Council might be substituted—that the Minister General might visit and correct these houses in person, and that two friaries in each province, suitable for habitation and furnished with books and the other necessaries for divine worship, should be assigned to the Observatines.[2] Consequently, in 1416 the first Observatine Chapter was held at Bercore by Nicolas Rudolph, who had been appointed Vicar General of the French houses by the Council, and it was attended by the "superiors and distinguished friars" of the provinces,[3] "who decided many things necessary for the establishment of the reformation."[4] In the following year, the Conventuals replied by a series of constitutions in the Chapter General at Casale condemning diversity in observance or in dress in accordance with the *Quorundam exigit* of John XXII.;[5] but these ungenerous tactics were attended with little success, inasmuch as the maintenance of their control over the Observatines, whom

[1] Labré, *Collectio Sanctorum Conciliorum*, XXVII. col. 797.

[2] *A. M.*, IX. 371–374, No. 7. 1415. Reaffirmed by Martin V., 5th May 1420; *B. F.*, VII. No. 1448.

[3] *Ibid.* IX. 388, No. 8. 1416.

[4] *Ibid.*

[5] *Glassberger Chron.*, *A. F.*, II. 287.

they persisted in regarding as the descendants of the unruly Spirituals condemned for contumacy a century before, depended upon the vindication of the independence of the Chapter General from the decree of the General Council. Matters remained in this impasse for another decade, until a more serious attempt at reconciliation was made in the Chapter General of 1430, which was attended by all the friars, "Conventual as well as Observatine," in accordance with the admonitory rescript of Martin V.[1] His Holiness had already shown himself a warm supporter of the minority in furthering the decree of the Council, and in granting them privileges to accept and build new houses independent of Conventual control;[2] so that their position in this Chapter was no longer that of supplicants. The election of William de Casale to the Generalship in place of Antonio de Massa, who was hostile to the Observance, cleared the way for the adoption of the *Martinianae*, which, for the moment, all were prepared to accept as the standard of observance in a united Order.[3] The new Minister solemnly swore to observe and administer this constitution; the fraternity was formally absolved from obedience to the Testament of St. Francis; the Observatines acquiesced in the abolition of their Provincial Vicars; and the pristine authority of the Minister General was once more restored.[4] But this apparently sincere resolve to live *fraternaliter* was of short duration. The Minister was lukewarm in the observance of his oath; while the Conventual friar resumed his former manner of living, and forced the Observatine to return to the shelter of apostolic privilege. Under a series of Bulls the Observatine Vicars were restored, with authority to hold Provincial Chapters;[5] and, in 1443, in accordance with the orders of Eugenius IV., the Chapter General recognised the division of the Observatine organisation into cismontane and ultramontane sections, under the control of two Vicars General, Friars John of Capistrano

[1] *Romani pontificis*, 29th April 1430.

[2] *Promptum et benevolum*, 17th September 1418; *A. M.*, 1418, No. 41.

[3] *Vide* changed attitude of the Observatines towards the use of Procurators sanctioned by the *Martinianae*; *infra*, p. 442.

[4] *A. M.*, X. 149, No. 5.

[5] *Ibid.* X. 179, No. 5; 225, No. 6, 1431 and 1434.

and John de Maubert.[1] Three years later, Eugenius IV. re-affirmed this disjunction, and granted the Vicars General the powers of a Minister in regard to the convocation of chapters, the enactment of constitutions, and unfettered control over the houses and provinces under their charge.[2] From this date unity in the Order existed only in name. The Conventuals retained the guardianship of the convent at Assisi; while the Portiuncula, Mount Alverno and the Holy Places at Jerusalem were entrusted to the care of the Observatines.[3] Under the leadership and guidance of Bernardine of Siena, John of Capistrano, James of Mark and Albert of Arthiano—quaintly termed by the annalist the four pillars of the Observance[4]—the process of supplanting and reforming the provinces continued with amazing rapidity, accompanied, however, with that bitterness of feeling so characteristic of sectarian intolerance. In brief, there was a return to the golden age of Franciscanism with its attendant revival and definite expression of lay sympathies. As the visible type of subjective religion, the Observatine pushed aside the Conventual friar, in the same manner as the latter had previously impinged on the authority of the secular priest; and finally, in 1517, the *Omnipotens Deus*[5] regulated divergence and contention by the institution of independent Ministers for each family, by the recognition of the Observatine General as the head of the whole Order, and by a provision that the Observatines should take precedence over the Conventuals in processions, funerals and other solemn occasions.

So far as can be ascertained, neither the Scottish Vicariate nor its friars took any share in this controversy; and it is quite certain that the establishment of the strict Observance in this country was due to external influences. Knowledge of the movement reached the ears of our poet king, James I., who, we may suppose, considered the question of Conventual reform after his return from captivity. In view

[1] *A. M.*, XI. 176, No. 4.

[2] *Ibid.* XI. 256–258, Nos. 7, 8, 9. A special rescript was addressed to John de Maubert on this occasion as to the good government of his Vicariate which had been disturbed by secessions.

[3] *Ibid.* X. 180 and 225, No. 8.

[4] *Ibid.* XI. 387.

[5] 12th June 1517, *infra*, II. p. 435; and *Licet alias*, 6th December 1517.

Interior of the Aracoeli, Rome—the Head-quarters of the Observatines. Granted to them in 1443.

of the existing racial antipathy which was acutely reflected in the independence of the Scottish Vicariate, and of the continental sympathies of the nation, it is only natural to find that he invited a colony of continental Observatines to settle in Scotland in 1436.[1] These pioneers in the restoration of the "lapsed Observance," under the leadership of Father Cornelius of Zierikzee in the Observatine Province of Cologne, did not reach Scotland until the year 1447; and this delay of eleven years between the invitation and the arrival of the mission in this country has led Father Hay into chronological inaccuracy, when he states that James I. addressed his request to the Province of Cologne, and that John de Maubert, who had been appointed the first Vicar General by Eugenius IV. in 1446, sent certain learned German fathers to Scotland.[2] As James died in 1437, he could have had no personal relations with the official Observatine Province of Cologne, which only came into existence in 1443[3]; and we cannot accept the suggestion of Father Conrad Eubel, that the Bull of Martin V. in 1429, conferring power on *a King James* to erect two houses for the Claresses, was granted at the request of James I. of Scotland.[4] Two of his daughters, Margaret, Dauphine of France, and Isabella, Duchess of Brittany, were, however, members of the Third Order of St. Francis, and several interesting Franciscan relics of these princesses are still preserved in France. An illuminated copy of a paraphrase of the Book of Job by Pierre Nesson has as a frontispiece a miniature of Margaret wearing the

[1] Father Hay, *The History of the Observatine Province of Scotland*; printed *infra*, II. pp. 173–83, and hereafter quoted as *Ob. Chron.*

[2] *Ibid.* *Vide* note 3, p. 53. The missionaries were with one exception Dutchmen, and the use of the word German must be understood solely in relation to the name of their Province—Cologne. The original Conventual Province of Germany was subdivided in 1240 into the Upper German or Strasburg Province and the Lower German or Cologne Province, consisting of seven custodies, and numbering fifty-one friaries at the end of the fifteenth century. It included within its boundaries practically the whole of the modern kingdoms of Holland and Belgium, and it was in the Western Dutch section that the Observance was established in 1443.

[3] *Inter ecclesiasticos*, 13th September 1443; Schlager, *Beiträge, etc.*, pp. 286–7.

[4] *Inter desiderabilia*, 28th July 1429. The name of the kingdom is omitted from the text of the Bull, but the Editor of the *Bullarium Franciscanum* has not observed that the diocese of *Castrensis*—in Sardinia—is designated as the locality in which the two houses were to be erected.

Franciscan cord, and on this account it became known as the *Livre de Marguerite d'Escosse*, she being erroneously considered as the author of the paraphrase.[1] Isabella received as a marriage gift from her husband, Duke Francis I., a Book of Hours,[2] profusely illustrated with miniatures, in which she is frequently the central figure, associated with St. Francis. In 1464, she ordered Friar Jean Hubert to write for her a copy of a book known as *La Somme des Vices et des Vertus*,[3] and in the first full-page miniature she is represented kneeling in an attitude of prayer and wearing the white cordelière over her robe on which the arms of Brittany and Scotland are impaled.[4] In later life, she elected to be buried in the Grey Friary at Rennes, to which she made several bequests in her second will; but in her third and last will she revoked these bequests and her choice of sepulchre.[5] It, therefore, seems unnecessary to doubt that James I. sent this invitation to a colony of Observatines in France or the Low Countries, and a glance at the history of the movement there will dispel the apparent inconsistency in the chronicler's narrative. The "cradle of the Observance in Northern Europe" was the Friary of Mirabelle in Picardy,[6] whence it spread throughout the north of France, gaining a special hold at St. Omer. From this centre, in turn, the reformation of the Low Countries was effected in the face of strenuous opposition from the Conventuals and

[1] The book was sold in London in 1860 and passed into the collection of M. Hedou, a noted French bibliophile.

[2] Written *circa* 1441.

[3] A popular work, originally written in the twelfth century.

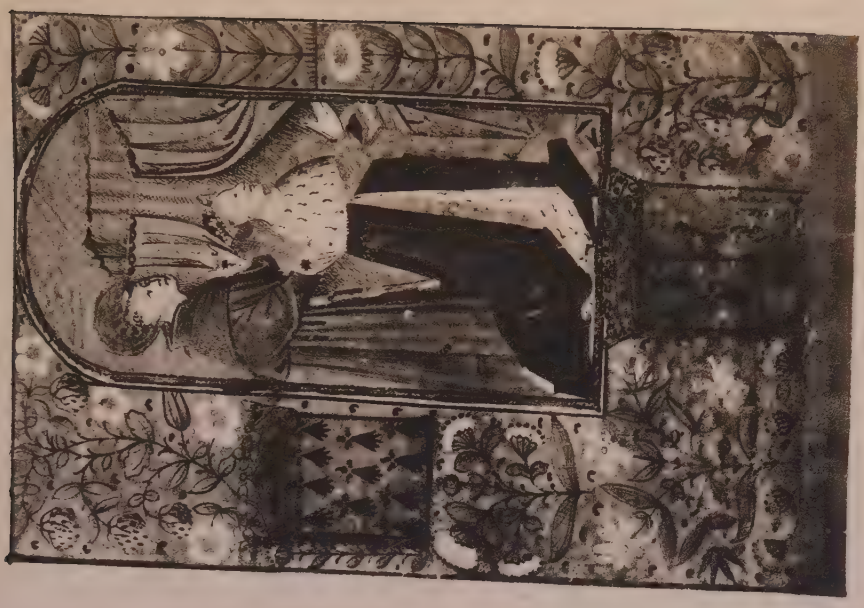
[4] M. Henry Martin in *Les Miniaturistes Français* (Paris, 1906) says of this drawing: "Ce ne sont pas évidemment des chefs-d'œuvre que les portraits qui se voient dans la Somme le Roi, copiée, en 1464, par Jean Hubert pour Isabeau d'Écosse, duchesse de Bretagne. Au premier rang figure la duchesse Isabeau, puis Marguerite de Bretagne, qui épousa Francois II., duc de Bretagne, et Marie, fille d'Isabeau et femme de Jean, Vicomte de Rohan. On ne saurait douter que ces peintures aient été exécutées en Bretagne. L'art breton du XV^e^ siècle n'est point joli, mais il offre un caractère d'énergie, ou mieux de rudesse, qui en peut rendre l'étude intéressante." These two books are now preserved in the Bibliothèque Nationale in Paris; MS. fonds latin, 1369, MS. fonds français, 958.

[5] Père Morice, *Histoire de Bretagne*, Documents, Vol. III.

[6] Labré, *Collectio*, XXVII. col. 798.

Photogravures of two Miniatures—the one of Isabella, daughter of James I. of Scotland, and the other of her husband, Duke Francis I. of Brittany—taken from a Book of Hours which was presented to her by the Duke on the occasion of her marriage, *circa* 1442.

From Original in Bibl. Nat., Paris.



the secular clergy. An abortive mission was sent to Gouda in 1418, and was finally established there in 1439[1] as the first Observatine community in the province of Cologne.[2] The second friary was founded at Leyden in 1445, and was quickly followed by those at Alkmaar, Antwerp, Mechlin and Delft. The relationship between this rapid, though tardy, expansion and the Generalship of John de Maubert (dating from 1443[3]) is manifest, and documentary evidence of his activity in the following year is furnished in the account of his (ultramontane) general congregation held at St. Omer for the appointment of Provincial Vicars throughout France, Burgundy and Touraine.[4] Considering the predominance of the Friary at St. Omer, and the cordial relations subsisting between France and Scotland prior to the death of James I., it seems highly probable that he addressed his request to this house; while the delay is easily explained by the uncertain position of the Observatine friars before the disjunction of 1443. In 1447 the Dutch friars assembled in provincial chapter at Gouda to elect their first Provincial, and Father Schlager[5] suggests that the mission to Scotland under Father Cornelius was decided upon in this chapter at the request of the Vicar General. It may be suggested with equal probability that James II. repeated his father's invitation in 1447, and that it was acceded to by John de Maubert in the chapter which he held at the parent house of St. Omer in that year.[6]

[1] It is significant of contemporary opinion of the Conventual Franciscans that the Town Council of Gouda should have exacted from the Observatines a promise in writing that (1) they would acquire no property; (2) they would beg only once a week in the same street; (3) the number of friars resident in the convent would not exceed twenty; and (4) in the event of any deviation from the Rule, they would voluntarily leave the city. Schlager, *Beiträge, etc.*, p. 99.

[2] Gonzaga, *De Origine*, p. 1166.

[3] *A. M.*, *sub anno*, No. 4; *supra*, pp. 50, 51. Father Hay seems to have been in ignorance of this fact when he gives 1446 as the date of appointment. Friar Maubert had administered his vicariate for three years under the mandate of the Chapter General and Eugenius IV., before the papal rescript of 1446 was addressed to him on the subject of his powers and the discipline to be observed in the houses under his control.

[4] *A. M.*, XI. 224, No. 58; anno 1444.

[5] *Beiträge*, p. 102.

[6] *A. M.*, XI. 291, No. 18.

CHAPTER III

THE OBSERVATINE PROVINCE

Arrival of the Observatines in Edinburgh—The scruples of Father Cornelius and their historical significance—The Friaries in St. Andrews and Perth—The *Intelleximus te*—Recognition of the Scottish Observatine Province—The Observatine and Conventual Friars—The Stirling Friary founded by James IV. —Jedburgh.

The arrival of the Dutch Friars in Edinburgh was an event of no ordinary importance in the annals of reformation within the Scottish Church; and it also made a strong appeal to the contemporary conception of piety, in which outward manifestation played so large a part. Like the first Franciscans, these Bernardine revivalists quickened the pulse of religious life, now fast relapsing into the objective state from which it had been rescued at the commencement of the thirteenth century. During the inevitable reaction following that phase of intense subjectivism, the average friar accepted the successive modifications of his Rule sanctioned by the Holy See, until, in the fifteenth century, Franciscan discipline considered as a rule of life had been so far impinged upon that material provision for future needs ceased to be an infraction of the Rule.[1] Nevertheless, organisation, which mutilated the ideal from the corporate point of view, must not be considered a loss to the individual. The emancipation of the parishioner, and the recognition of preaching as an essential part of divine service, were the direct results of that long bitter struggle between the friars and the churchmen, from which the Franciscans emerged the most highly centralised corporation within the

[1] *Speculum Perfectionis*: "*Franciscus nolebat Fratres esse providos et sollicitos de crastino.*" "*Non fui latro de eleemosynis acquirendo eas vel utendo eis ultra necessitatem. Semper minus accepi quam me contingeret ne alii pauperes defraudentur portione, quia contrarium facere furtum esset*" (II. cap. 12).

Church. Their Charter of Liberties[1] all but secured complete personal liberty to the layman in the exercise of his religion; it represented the victory of individualism over officialdom; and it remained the most conspicuous landmark in the evolution of the democratic character so pronounced in the organisation of the Reformed Church. Thereunder, the devout observer of religious duties enjoyed full liberty in the selection of the laver of his conscience, no more than a conciliatory admonition[2] reminding him of the canon of the Council (1215) that homologated the formal absolutism of the parish priest. Confident in the absolution so granted by the friar priest, the parishioner could demand the Sacraments, indifferent to the persuasion or threats of his Rector. Attendance at a mass either in the parish or friary church discharged his obligation on the Sabbath morning and Feast days. On deathbed, the last offices of the Church were received from his chosen celebrant, and the cemetery of the friary or the parish was his last resting-place according to a deliberate choice in life. His goods and gear alone perpetuated the distinction between a voluntary and official clergy. The latter retained the right to join him in wedlock, to baptize his child, to claim his tithes and to deplete his succession under the guise of mortuary dues. Such had been the important rôle of the Conventual friar in the evolution of religious observance; and now, when personal asceticism had largely receded from his daily life, his Observatine brother was at hand to stir European piety to its depths.

In Scotland there was a salient compromise between the old and the new Franciscans; while the hierarchy accurately gauged the sympathies of the people, and welcomed the Observatines in the diocese or invited them to settle there. At Edinburgh, James Douglas of Cassillis directed the preparations of welcome. Under his guidance funds were collected among the citizens and merchants[3] for the erection and equipment of the first Observatine friary

[1] *Super Cathedram*, 18th February 1300; *infra*, II. p. 447.

[2] To make one confession in the year to the priest of his parish.

[3] Crown Charter of Confirmation and Mortification, 21st December 1479, *MS. Reg. Mag. Sig.*, IX. No. 2; *infra*, pp. 61, 62, and II. p. 195. *A. M.*, XIV. 56, "*communi et mercatorum aere.*"

under the shadow of the Castle rock. Their zeal was born of tradition; but it was misplaced. Whatever may have been the character of the buildings and the extent of ground attached, Father Cornelius rebuffed the proffered welcome. Discipline was the predominant note in his administration. The precept of St. Francis was clear: the duty of the friars was to accept only some slight form of shelter. "Those buildings," in the favourite descriptive phrase of the chronicler,[1] "seemed not to be the dwellings of poor men, but of the great." Entreaties were in vain. For the next seven years the friary remained untenanted; while the friars occupied some friendly house as a simple habitaculum. The good offices of the Bishop of St. Andrews, as diocesan Superior, were solicited in this impasse, and finally, in 1455 or 1458,[2] the reigning Pope calmed the scruples of Cornelius by incorporating the friary into the patrimony of St. Peter under his apostolic rescript.[3] In this manner, Cornelius accepted the central principle of the theory of Franciscan poverty,[4] and entered into possession of the friary as its first Warden, with the conscientious reservation that it did not belong to the friars in property, and that they conformed to the character of "pilgrims and strangers" desiderated by the Rule. None the less, so long as he retained the direction of the mission in his hands their numbers rapidly increased; and, before his return to Antwerp in 1462, the presence of individual Observatines may be traced as far north as Aberdeen.[5] Meanwhile a second friary had been established in the university town of St. Andrews, in or about 1458, under the ægis of Bishop James Kennedy,[6] who is represented as acting under the influence of Friar Robert

[1] *Ob. Chron. Exivi*, cap. X., "*non videntur habitacula pauperum sed magnatum.*"

[2] The Chronicler says 1455 during the reign of Pius II., who, as Æneas Silvius, acted as Legate in Scotland in the time of James I. This is a slight inaccuracy. Alphonsus Borgia was elected Pope, under the name of Calixtus III., in April 1455; and Æneas Silvius was elected his successor, under the title of Pius II. in August 1458. In 1455, however, Æneas Silvius was taking an active interest in Franciscan affairs at Rome, and it was probably he who procured the issue of the Letters of Incorporation by Calixtus III. *A. M.*, XII. 239, 245, and XIII. 59.

[3] Cf. St. Francis and Cardinal Ugolini at Bologna, *Speculum Perfectionis*, cap. VI.

[4] *Vide* chapter XII.

[5] *Aberd. Ob. Cal.*, *infra*, p. 329.

[6] Crown Charter of Confirmation, *infra*, p. 62.

Keith, a kinsman of the Earl Marischal and a Doctor in Sacred Theology.[1] In due course, the influence of education invaded the detachment of the Observatines, to operate the same radical change upon their organisation that it had effected on that of the Conventuals during the generalship of Elias of Cortona and Haymo of Faversham. A provincial school of philosophy and theology was established in the friary at Edinburgh, while the novices of the Order were drafted to the Franciscan seminary at St. Andrews for their preliminary course of study; and, ere long, the friars of the university towns appear to have been recognised as the habitual confessors of the students, under the sanction of the bishops.[2] The foundation of the third friary at Perth in 1460 is associated with the name of Laurence, first Lord Oliphant, and drew attention to the fact that the provisions of the *Cum ex eo* of Boniface VIII. remained unfulfilled in this case as well as in that of St. Andrews. That constitution prohibited the acceptance of a friary by any community of the Mendicant Orders, unless the sanction of the Holy See had been previously granted in a formal instrument, afterwards known as the Bull of Erection.[3] The penalty was excommunication, occasionally inflicted upon the offending Chapter.[4] A generous interpretation was, however, put upon this restriction, and no penalties were exacted, provided that the grant of a friary was communicated to the Chancery at or shortly after the completion of the buildings. The sanction of the bishop did not supersede that of the Curia, and, consequently, an obscure paragraph appears in the Annals under the year 1466,[5] to the effect that the friars of the Vicariate of Scotland were absolved in respect of their acceptance of a friary in "Bertheo" from Henry, Bishop of St Andrews, and their occupation of it as a religious house for more than forty years with the sanction of the Ordinary alone.[6] Accordingly, to

[1] *Ob. Chron.* [2] *Ibid.*

[3] The Franciscans were exempted by papal privilege from requiring the sanction of the episcopal or parochial authorities to any of their settlements.

[4] *A. M.*, XII. 606. [5] *Ibid.* XIII. 390.

[6] As Lanark received its Bull of Erection in 1346, this could not have been a Franciscan friary; and Wadding's continuator has increased the confusion by his

regularise the foundations at Perth and St. Andrews, Mary of Gueldres petitioned Pius II. for general powers to accept three or four houses on behalf of the Observatines, and her request was granted in the *Intelleximus te* addressed to the Vicar General of the Ultramontane Province of Observatines in the following terms :—

> "It has come to our knowledge that, in accordance with the devotion of our dearest daughter in Christ, Mary, illustrious Queen of Scotland, and of that people, at the request of certain merchants, you have of late sent your brethren as preachers to that kingdom in which there was no house of the Observance practised by your Order, although it seemed most useful, pleasing and acceptable to the people. We, who seek the welfare of all, do therefore by these presents grant you, and your successor for the time, power to erect, found and build, and likewise to receive three or four houses in the said kingdom, if any chance to make a gracious offer to found and erect the same; and power also, with the consent of the Ordinaries, to receive two or three houses of the Conventuals of your Order in those cases where the better living part or the majority shall consent thereto. And, further, by these presents we grant to the Friars, dwelling for the time under the Observance in the said houses to be built and received, the use and enjoyment of all and sundry the favours, privileges and indulgences granted or to be granted to your Order or to your division of it. Apostolic and other constitutions and decreets to the contrary notwithstanding. Given at Rome, etc., 9th June 1463."

The utmost caution must be observed in regard to the narrative clause of this Bull, when it attributes the Observatine mission to Scotland to the devotion of Mary of Gueldres, and affirms that no friary had been erected before 1463. In point of fact, the precept of James II., and the relative receipt for £150 granted by the friars of Edinburgh,[1] conclusively disprove the latter statement, which is simply expressed in the conventional style governing all instruments issued by the papal Chancery in accordance with the *Cum ex eo*.[2] The Charter of Confirmation under the Great Seal issued in 1479 also confirms the names of the founders given by Father Hay; so that, in view of this and

similar want of success in deciphering the place name—St. Berocheen. *A. M.*, XIII. 380–1.

[1] *Infra*, p. 284.

[2] The friary is invariably referred to as "to be erected or received," *e.g.* Lanark, Stirling, Jedburgh.

the numerous other cases in which his narrative may be controlled, it seems unnecessary to place any reliance upon the preamble of the *Intelleximus te*.[1] In regard to the authority to assume control over two or three Conventual friaries, it is to be observed that none of these houses ever passed under the control of the Observatines—perhaps a tacit recognition that the discipline maintained in them had given rise to no scandal such as is to be frequently met with on the continent. On the contrary, the Observatines uniformly avoided the centres colonised by the Conventuals, and the amicable relations between the two branches of the Order were not disturbed until the beginning of the sixteenth century, when the Conventuals made a determined effort to assume control over the fully organised Observatine province. This was the penultimate phase of the controversy raging all over Europe. As the most potent example to their flock, the strict Observatine clung to the fetish of Franciscan abnegation, a certain talisman to heaven.[2] The persistent and increasing popularity enjoyed by them on account of their circumspect manner of living seriously prejudiced the Conventuals, who resorted to the obstructive tactics pursued by their Chapter General in 1417.[3] The old statutes concerning uniformity in dress and observance of the Rule were revived, in order to deprive the Observatines of their distinctive characteristic, and it would appear that a certain amount of success had attended this reactionary policy in Scotland. James IV. thereupon intervened on behalf of his favourite friars, and wrote a spirited letter in their defence,[4] which not only constitutes the most eloquent testimony to their ecclesiastical character and influence furnished by our native records, but also anticipated the decision of Leo X. and his Council in 1517, when the pretensions of the Conventuals were finally repelled.[5] Following upon this decision,

[1] James IV., in his letter to Julius II. on 1st February 1505, obviously quotes from this Bull, when he states that the Order was introduced into Scotland forty-two years ago by his illustrious grandmother. *Infra*, p. 92, II. p. 277.

[2] Testament of St. Francis: *Spec. Perf.*, caps. 76, 79. [3] *Supra*, p. 48.

[4] Ruddiman, *Epistolae*, I. 23. James IV. to Julius II., 1st February 1505. *Infra*, pp. 91–93, II. pp. 276–278.

[5] *Omnipotens Deus*, 12th June 1517; *infra* II. p. 435.

the Scottish Observatines contended that their rivals should be compelled to wear the distinctive mark upon their habit provided for in the Bull of Concordance. Immediate resistance was offered to this privilege, with the result that the offenders were summoned before the Bishop of Brechin, the Observatines being represented by the Wardens of Edinburgh and Elgin,[1] and the Conventuals by their Provincial and the Warden of Dundee.[2] Bishop John decided in favour of the Observatines, and, in the last resort, the dispute was referred to the Vice-Protector of the Order at Rome, where an amicable settlement was arrived at on conditions now unknown.[3]

Returning to the narrative interrupted in 1463, the Observatine Chapter General sanctioned the erection of the Scottish Province in 1467,[4] and its fourth friary was established at Aberdeen in 1469–70 under the general powers conferred in the Bull obtained by Mary of Gueldres. From the record point of view, this is the most interesting friary in Scotland; and the comparative wealth of contemporary evidence concerning its erection and furnishings cannot fail to draw attention to the sympathetic attitude of our ancestors towards these friars. After the maintenance of an informal habitaculum for eight years, friar and citizen alike assisted in the actual construction of the more pretentious buildings outside the town, upon a site gifted by a neighbouring landholder, and disburdened of an annual rent of twenty-four shillings and eightpence by the burghal authorities out of the common funds. Thereafter, it was furnished with books, vestments, ornaments and sacred vessels by the charities of the burgesses or their wives; and, when it was found to have been conceived on an inadequate scale, extension was facilitated by grants of ground from citizens whose lands abutted on it.[5] Three years later, we find the friars settled in Glasgow in reply to the invitation of the Bishop;[6] and it was probably from this friary, or from that in Perth, that those of the brethren who

[1] Erroneously stated to be Moray.

[2] Andrew Cairns and Robert Stuart; John Couvalson (Connelson) and John Ferguson.

[3] *A. M.*, XVI. 549 *et seq.*

[4] *Supra*, p. 16.

[5] *Infra*, pp. 311–14.

[6] Charter of Confirmation, *infra*, p. 62.

possessed a knowledge of Gaelic drifted out into the wild country surrounding Dunkeld to assist the clergy of Bishop Brown in their work among the Highlanders. Alexander Myll, the deacon of Angus, records this interesting subdivision of ecclesiastical work in his account of the life of Bishop Brown. The diocese was divided into four deaconries, and special provision was made to ensure the hearing of confession "by the greater and more learned of his church." Along with these confessors, the Bishop sent certain Friars Minor and Dominican Friars, who were acquainted with the Gaelic language, to preach and hear confession at least once a year in the more northerly parts of the diocese. The worthy deacon gravely asserts that, by the diligence of their preaching, the parochial and diocesan clergy were enabled to hear the confession of, and grant absolution for, sins which had not been confessed for thirty years past; while sins were so publicly punished during the lifetime of Bishop Brown, that, when he died, there were few who could be charged with serious offences.[1]

In June 1479, the Chapters of the four principal towns conformed to the requirements of the Scots Civil Law, by presenting a joint petition for a charter of Confirmation under the Great Seal that would legalise the several mortifications of their heritable property. Their request was granted—without payment of the customary fees—in the following terms by James III., who, in the words of his son James IV., "enriched them," while his wife "cherished them with all care":—

> "James (the Third), by the grace of God, King of Scots, to all worthy men of his whole land, clerics and laymen, greeting: Wit ye us, for the singular favour and devotion which we bear towards our beloved and devout orators, the Friars Minor of Observance, and for the weal of our soul and the souls of our ancestors and successors, to have approved, ratified, confirmed, and for us and our successors for ever to have mortified, also to approve, ratify, mortify and, by these presents, for ever confirm the sites of the Place belonging to the said friars within our Burgh of Edinburgh, and the ground and lands lying and contained within the said place, given and bought for them by the community of the said burgh, James Douglas of Cassillis, or other devout persons

[1] *Lives of the Bishops of Dunkeld*, p. 30. (Bann. Club.)

whomsoever; *And* likewise the site of the Place pertaining to the said Friars within the city of St. Andrews, and the ground and lands there lying, given to them by the late Reverend Father in Christ, James, Bishop of St. Andrews, with consent of the Chapter thereof; *And* also the site of the Place pertaining to the said Friars within the city of Glasgow by gift of the Reverend Father John, now Bishop of Glasgow, with consent of his chapter, or by gift of Master Thomas Forsithe, Rector of Glasgow; *Also*, the site of the Place belonging to the said friars in our burgh of Aberdeen, and ground and lands contained within the same, given to and bought for them by the community of the said burgh of Aberdeen, and by the late Richard Vaus of Many, James Bissate, or other devout persons whomsoever: To be holden, had and possessed, the sites, grounds and lands of the said four Places of Edinburgh, Saint Andrews, Glasgow and Aberdeen by the said Friars Minor and their successors, according to the form and mode of their Order, in pure and perpetual alms, gift, mortification and mortmain for ever confirmed. And, moreover, we have in like manner confirmed and mortified, and for us and our successors by the tenor hereof do confirm and mortify all gifts, charters, evidents and instruments made and to be made to our said Orators upon the said four Places, saving to us and our successors the suffrages of their devout prayers only."[1]

The friaries situated in the less important burghs of Perth, Ayr and Elgin were not included in this mortification. The two last mentioned were erected respectively in 1474 and 1479 by the merchants of the Ayrshire seaport and by Innes of Innes, "moved to penitence and fervour by the preaching of the friars resident in Aberdeen."[2] As the continuing mandate expressed in the Bull of 1463 expired with the erection of the fifth friary in Glasgow, another Bishop of Dunkeld in 1481–82 procured the sanction of Sixtus IV. to the acceptance of two or three other houses.[3]

In 1494, the Observatines earned the distinguished recognition of James IV., their staunchest supporter and benefactor among the Scottish sovereigns. He constituted

[1] *MS. Reg. Mag. Sig.*, IX. No. 2; *infra*, II. p. 195. Spottiswood erroneously states that this Charter was dated from the Edinburgh friary and addressed to its friars.

[2] *Ob. Chron.*

[3] *A. M.*, XIV. 280, 320. The continuator of the *Annales Minorum* has created some confusion by inserting a second notice of this Bull in which he attributes its procurement to James, Bishop of Dunblane. The latter See was occupied at this date by John Hepburn (Keith, Russell's ed. pp. 90–91), and the text of the Bull specifically states that it was granted on the petition of James, Bishop of Dunkeld. Neither the Annalist nor his continuator disclose this Bull. The text is printed *infra*, II. p. 250.

them the lavers of his conscience, styled himself the "Protector of Observance," and, at his own expense, proceeded with the erection of their eighth friary at Stirling. Three years later he procured a special Bull of Erection from Alexander VI. :—

"To our dearest son in Christ, James, illustrious King of Scots.

While, among other things, etc., there was recently presented to us on your behalf a petition setting forth that you—stirred with devout zeal, and desiring by a blessed commerce to exchange that which is transitory for that which is eternal, and that which is temporal for that which is of heaven, from the singular and devout affection which you bear to the Order of Friars Minor called of Observance, living under Vicars, and to their persons, and because of their exemplary life and the abundant blessings which they bring to those among whom they dwell by their unremitting and devout celebration of divine service, the preaching of the word of God and their discreet hearing of confessions —desire above all things, out of the wealth which God has bestowed upon you, to have a house erected and built for the perpetual use and occupation of the friars of this Order in the town of Stirling, lying in your dominions and in the diocese of St. Andrews, if license be granted to you by the Apostolic See to have that house built, and to the friars to receive it for their use and occupation. Wherein humble supplication has been made to us on your behalf, that We, of our apostolic kindness, should deign to grant permission, and otherwise in the premises fitly provide, for the construction and erection of the foresaid house, with a church, belfry, bell, burial ground, cloister, refectory, dormitory, gardens, plots, and, after its construction, for its acceptance by the friars for their perpetual use and occupation as a dwelling place in all time coming. Wherein, We, favourably inclined to your supplication, by our apostolic authority and the tenor of these presents, grant permission to you, without prejudice to any other, to provide for the foundation, construction and erection of the said house, with belfry, bell, burial ground, cloister, refectory, dormitory, gardens, plots and other necessary offices, for perpetual use and occupation by the foresaid friars in the said town, and to the friars themselves to accept it for their perpetual use and occupation as a dwelling place in all time to come: the decreets of Pope Boniface VIII. of happy memory and other apostolic decreets whatsoever to the contrary notwithstanding. Moreover, by the aforesaid authority, we grant to the foresaid house, if in virtue of these presents *it shall happen to be constructed and built* by you as aforesaid, and to the Warden thereof for the time, and to the friars, freely and lawfully, to have and enjoy all and sundry exemptions, indulgences of grace, favours and indulgences granted or to be granted by the Apostolic See to the other houses of this Order and their Wardens and friars. Therefore, let no one, etc. Given at Rome at St. Peters in the year of our Lord's

Incarnation 1497, the 9th day of January and 6th year of our pontificate."[1]

Father Hay tells us that King James prohibited the "masters of the work" from accepting assistance, even to the extent of a nail, in the construction of the buildings; and the Chamberlain's and Treasurer's accounts afford ample testimony to the truth of this assertion.[2] The first Warden was Patrick Ranny, afterwards Provincial Minister; and it was by his advice that the young king put an iron girdle round his loins, in expiation of the share he had unwittingly taken in the rebellion which terminated in the murder of his father.[3] The wearing of this penitential belt—which was padded with worsted to prevent it chafing the skin[4]—was only one proof, says a recent historian, of a sorrow which James could not drown in wine nor forget in the arms of women;[5] and it was doubtless the same sad circumstance that led him to seek frequent spiritual consolation from the Observatines of Stirling. During Holy Week, it was his custom to withdraw from all state business and to remain in this friary in strict seclusion. Hence, we find that on 1st April 1513, the English Ambassador, Dr. West, was denied an audience with the king until the Monday following "as he was still with the Observatines." When the audience was granted the friar hurried the sermon to permit the Dean of the Chapel to keep his appointment with the ambassador, prior to his fruitless interview with the Earl of Argyll, the Secretary and Master James Henryson in the friary upon the following afternoon.[6] To resume the narrative of the chronicler, James heard Mass and Vespers daily in the friary when at Stirling, and he also filled the office of reader on the Day of Preparation, when it was the practice of the friars to take their repast sitting on the floor. This marked predilection for Stirling and its friary naturally displeased

[1] *A. M.*, XV. 551, No. 45. [2] *Infra*, pp. 368–70. [3] *Ob. Chron.*

[4] Cf. Treas. Accounts, p. 250, Sir J. Balfour Paul's remarks regarding the entry of payment made in January 1506–7 for "VI quarters worsait for the King's iron belt."

[5] Lang's *Hist. of Scot.*, I. 375.

[6] *Henry VIII. Cal. State Papers*, Foreign and Domestic, I. No. 3838. Quoted *infra* as *Henry VIII. S. P.*

those of his courtiers who preferred the brighter surroundings of Edinburgh; and their feelings found expression in a comic poem addressed to him by William Dunbar, in the form of a Dirge[1] which parodied that portion of the funeral service in which the eighth verse of the fifth psalm, *Dirige, Dominus meus, in conspectu tuo vitam meam*, is so frequently repeated. The friary with its meagre fare and thin ale he terms purgatory, and beseeches the King to leave it and return to Edinburgh, the "mirry toun," the paradise by comparison :—

"We that ar heir in hevins glory,
To zow that ar in purgatory
Commendis ws on our hairtly wyiss;
I mene we folk in parradyis
In Edinburcht with all mirriness,
To zow of Striuilling in distress,
Quhair nowdir pleasance nor delyt is,
For pety thus ane Apostill wrytis.
O! ze heremeitis and hankersaidilis,[2]
That takis your pennance at your tablis,
And eitis nocht meit restoratiue,
Nor drynkis no wyn confortatiue
Bot aill and that is thyn and small;
With few coursis into zour hall,
But cumpany of lordis and knychtis,
Or ony vder gudly wichtis,
Solitar walkand zour allone,
Seing no thing bot stok and stone;
Out of zour panefull purgatory
To bring zow to the bliss of glory
Off Edinburgh the mirry toun
We sall begyn ane cairfull soun;
Ane dergy[3] devoit and meik,
The Lord of bliss doing beseik
Zow to delyuer out of zour noy[4]
And bring zow sone to Edinburgh ioy,
For to be mirry amang ws."

Then follows the dirge, in which he pictures the delights of Edinburgh :—

"Ze may in hevin heir with ws dwell,
To eit swan, cran, pertrik, and plever,

[1] Dunbar's *Poems*, ed. Scott. Text Soc., 1893, II. 112.
[2] Anchorites. [3] Dirige, or dirge. [4] French, *ennui*.

And every fische that swymis in rever;
To drynk with ws the new fresche wyne
That grew upoun the rever of Ryne,
Ffresche fragrant clairettis out of France,
Of Angerss and Orliance,
With mony ane courss of grit dyntie;
Say ze amen, for cheritie."

And he, therefore, beseeches him to—

"Cum hame and dwell no moir in Striuilling;
Frome hiddous hell cum hame and dwell,
Quhair fische to sell is non bot spirling;
Cum hame and dwell no moir in Striuilling."

Doubtless, as Professor Schipper remarks, "The Franciscan monks of Stirling received the poem with laughter and loud applause, when the King communicated it to them in the refectory."[1] In early life Dunbar had been an Observatine Grey Friar, and, it is believed, passed his noviciate in the Friary at St. Andrews. All that is known of him in this rôle has been preserved in one of his poems, which has attained considerable notoriety as the model of the *Somnium* of George Buchanan. The spirit and motive of the two poems are, however, essentially different; and, as representing the opinion of two observers, have nothing in common beyond a formal similarity, expressly adopted by Buchanan to give his poem an ambiguous or contradictory appearance. Dunbar thus describes his vision of St. Francis after he had abandoned the habit of the Order, and voices his plaint for the bestowal of a bishopric, since he was no fit subject for Franciscan discipline, and therefore was a hypocrite so long as he was subject to it:—

"This nycht befoir the dawing cleir,
Me thocht Sanct Francis did to me appeir,
With ane religiouss abbeit in his hand,
And said, 'In thiss go cleith the my serwand;
Reffuss the warld, for thow mon be a freir.'

[1] *Altenglische Metrik* von Dr. J. Schipper.

With him and with his abbeit bayth I skarrit,
Lyk to ane man that with a gaist wes marrit:
Me thocht on bed he layid it me abone,
Bot on the flure delyuerly and sone
I lap thairfra, and nevir wald cum nar it.

Quoth he, 'Quhy skarris thow with this holy weid?
Cleith the thairin, for weir it thow most neid;
Thow, that hes lang done Venus lawis teiche,
Sall now be freir, and in this abbeit preiche;
Delay it nocht, it mon be done but dreid.'

Quod I, 'Sanct Francis, loving be the till
And thankit mot thow be of thy gude will
To me, that of thy clayis ar so kynd;
Bot thame to weir it nevir come in my mynd;
Sweit Confessour, thow tak it nocht in ill.

In haly legendis haif I hard allevin,
Ma Sanctis of Bischoppis, nor freiris, be sic sevin;
Off full few freiris that hes bene sanctis I reid;
Quhairfoir ga bring to me ane bischopis weid,
Gife evir thow wald my saule gaid vnto Hevin.

My brethir oft hes maid the supplicationis,
Be epistillis, sermonis, and relationis,
To tak the abyte, bot thow did postpone;
But ony process, cum on thairfoir annone,
All circumstance put by and excusationis.

Gif evir my fortoun wes to be a freir,
The dait thairof is past full mony a zeir;
For into every lusty toun and place
Off all Yngland, frome Berwick to Kalice,
I haif in to thy habeit maid gud cheir.

In freiris weid full fairly haif I fleichit,
In it haif I in pulpet gon and preichit,
In Derntoun kirk, and eik in Canterberry;
In it I past at Dover our the ferry
Throw Piccardy, and thair the peple teichit.

Als lang as I did beir the freiris style,
In me, God wait, wes mony wrink and wyle
In me wes falset with every wicht to flatter,
Quhilk mycht be flemit with ne haly watter;
I wes ay reddy all men to begyle.'

This freir that did Sanct Francis thair appeir,
Ane fieind he wes in liknes of ane freir;
He waneist away with stynk and fyrie smowk;
With him me thocht all the housend he towk,
And I awoik as wy that wes in weir."

In the "Flyting," Kennedy makes fun of Dunbar's abortive attempt to play the part of a Grey Friar—

"Fra Etrike Forest furthward in Drumfrese
Thou beggit with a pardoun in all kirkis,
Collapis, cruddis, mele, grotis, grisis and geis,
And ondit nycht quhyle stall thou staggis et stirkis."

He alleges that Dunbar, finding that the Scots got wearied with his begging, betook himself to France; and, being well acquainted with the worldly side of Dunbar's nature, he concludes by characterising as dishonest all his works when in the guise of a friar—

"Because that Scotland of thy begging irkis,
Thou scapis in France to be a knycht of the felde,
Thou hast thy clamschellis and thy burdoun kelde—
Wnhonest wayis all, wolronn, that thou wirkis."

Dunbar acknowledged the relevancy of the charge in the penultimate verse of his poem—

"Als lang as I did beir the freiris style
In me, God wait, wes mony wrink and wyle;
In me wes falset with every wicht to flatter,
Quhilk mycht be flemit with ne haly watter;
I wes ay reddy all men to begyle."

Some recent writers regard this poem of "St. Francis" as a satire on the general body of the friars,[1] and not, as it really is, banter, devoid of malice. The lines—

"Off full few freiris that hes bene sanctis, I reid;
Quhairfoir ga bring to me ane bischopis weid,
Gife evir thou wald my saule gaid vnto Hevin"

[1] Prof. Hume Brown, *George Buchanan*, p. 90. The late Æ. J. G. Mackay, in the Introduction of *The Poems of Dunbar*, Scott. Text Soc., pp. lvi and cxxix; but at p. xxii the editor shows that he has fully understood the meaning of the poem.

simply mean that, although he had read of "full few"—*a good few*[1]—friars who had become saints, he preferred for himself the unattainable mitre. As a mere matter of history, the friars were never in greater repute than during the reign of James IV., and the remarkable declension in the morals and spiritual life of the general body of the clergy, which afforded such scope for the cynical pen of the Humanist and warranted Sir David Lindsay's trenchant differentiation of the friars from the churchmen, had not begun to appeal to discerning observers when the first vision of St. Francis was written.

Within a month or two after Flodden, and before the end of 1513, the last of the Scots Observatine Friaries was erected in the charmingly situated burgh of Jedburgh; and the papal license for its erection was issued by Pope Adrian VI. on 31st January 1521–22:—

> "To our beloved sons, the Minister and Friars of the Order of Minors of the regular Observance of the Province of Scotland, according to the Rule of the said Order.
>
> Whereas the community of the burgh of Jedburgh in the diocese of Glasgow, and the inhabitants and dwellers of the surrounding country in the kingdom of Scotland—because of their marked and devout affection for the Order of Friars Minor of the regular Observance, for the benefits which they hope will come to many souls as a result of their exemplary life, and of the diligent performance of divine worship, and in their anxiety to pass from dealings that are of this earth to the happiness which is of heaven—ardently desire at their own expense, on a fit and convenient site and under a name that shall seem good to you, the Minister, to construct and build, or to provide for the construction and erection of, a house in the foresaid burgh for the perpetual use of, and to serve as a dwelling place for, those Friars of the Order of Minors of the regular Observance, along with a church and dwarf steeple, etc. Wherefore, we have been entreated out of our paternal benevolence and apostolic kindness to give our assent to so worthy and religious a request.
>
> We, therefore, whose inmost desire is the increase of divine worship everywhere and especially in our own time, being favourably inclined to the request so made, by our apostolic authority and the tenor of these presents, saving always entire the rights of the parish church and of all

[1] "On sait que le premier Ordre de Saint François [*i.e.* Friars Minor] compte plus de cent quarante saints ou bienheureux dont on célèbre la fête." P. Norbert, *Les Religieuses Franciscaines*, p. 10.

others whomsoever, grant you license and indulgence to erect, build and construct, or to provide for the erection, building and construction of a house on a suitable site and under a suitable name as above, along with a church, steeple, etc., for the perpetual use of, and to serve as a dwelling place for, the said Friars Minor of the regular Observance of the Province of Scotland, and for its acceptance by you as a dwelling place, and to the house after its erection, and to the friars dwelling therein for the time, to freely and lawfully have and enjoy all and sundry the privileges, favours, etc., which they can and may, all decreets, etc., to the contrary notwithstanding. Granted at Rome at St. Peter's under the seal of the Pope, the 31st day of January 1521, and 8th year of our pontificate." [1]

[1] *Infra*, II. p. 262. The principal interest evoked by this foundation centres round Sir Thomas Craig's statement that it was built out of funds stolen by the Franciscans from the estates of those who fell at Flodden, and this will be fully discussed in Chapter VI.

Obverse of medal of the Doge Nicolas Marcello, 1474, displaying the monogram of Jesus, encircled with golden rays, devised by St. Bernardine of Siena for the veneration of the people.

CHAPTER IV

GENERAL HISTORY, 1445–1550

Mary of Gueldres, Henry VI. of England, and the Princess Cecilia—Entry of Princess Margaret into Edinburgh—James IV. and the Observatines—Minority of James V.—Friar Cairns as mediator between James V. and the Earl of Angus—Friar Lang and the Earl of Glencairn's Rhyme—English Franciscans seek refuge in Scotland—Sack of the Friary in Dundee—The Regent's abjuration in the Friary at Stirling—Destruction of the Friaries in Roxburgh, Jedburgh, Haddington and Dundee by the English—Martyrdom of the Warden of Dumfries—The English legacy of heresy.

In their accounts of the arrival of Mary of Gueldres in Edinburgh, of the asylum afforded to the refugee Lancastrian, Henry VI. of England, and of the betrothal by proxy of the infant children of James III. and Edward IV., Scottish writers have erroneously identified the Franciscans with these events of general interest in the history of the latter part of the fifteenth century. The confusion has presumably arisen out of the perplexing variety of names under which the Mendicant Orders, especially the Franciscans, appear in contemporary narratives and records. In Scottish sources the Grey Friars are to be met with as "the freirs," "the freirs cordeliers," "the friars observant," "the friars minor," "minours," "the minorites cordigeri" and "the society of pilgrims"; while, in common with the Black Friars, one of their distinctive characteristics was the marked ability which they displayed as preachers. On the other hand, the list of designations under which the Black Friars appear is much more restricted, the most consistent being that of "the Preaching Friars"—*Fratres Praedicatores.* On 18th June 1449, the fleet which escorted Mary of Gueldres and her retinue of Burgundian and French nobles to Scotland came to anchor in the Firth of Forth. The following day, the bride elect of James II. landed in state at Leith, and proceeded on horseback, seated behind Lord Campvere, to her lodging, it is alleged, in the convent

of the Grey Friars in Edinburgh, where she was visited by her royal lover and his suite at midnight of the following day. The Burgundian writer, De Coussy, the contemporary authority of this incident, thus describes her movements—"et après, en partant de là, elle monta à cheval derrière le susdit Seigneur de la Vere, comme firent aussi ses gens et s'en alla à Aldembourg [Edinburgh], où elle fut logée dans l'église des Jacobins."[1] Pinkerton, and those who have followed him, identify the "Church of the Jacobins" as that of the Franciscans;[2] but, as we have already seen, the Observatines of Edinburgh did not take possession of their friary until 1455, and it was the French Dominicans who were known to de Coussy as Jacobins, on account of the name of their principal convent in Paris, St. Jacques, situated in the Rue St. Jacques.[3] Twelve years later, after the defeat of the Lancastrians at the battle of Towton, Henry VI., along with his heroic wife, Margaret of Anjou, and their son, fled to Scotland, "where they had hospitable reception in the convent of the preaching friars."[4] The historians of Edinburgh,[5] relying upon the following passage from the *Martial Achievements* rather than upon the direct statement of John Major, have adopted the view that the convent which sheltered the royal fugitives was that of the Grey Friars—"these transactions being completed, the indefatigable Queen of England left the King, her husband, at his lodgings in the Grey Friars of Edinburgh, where his own inclinations to devotion and solitude made him choose to reside, and went with her son to France."[6] In this case,

[1] Matthieu de Coussy, *Chronique de* 1444 *à* 1461, p. 47; ed. Panthéon Littéraire.

[2] Pinkerton, I. 208; Chalmers, *Caledonia*, IV. 599; Sir Daniel Wilson's *Memorials of Edinburgh*, ed. 1872, p. 342; Stevenson's *Chronicle of Edinburgh*, p. 38; Grant, *Old and New Edinburgh*, II. 55. Tytler, founding on the *Auchinleck Chronicle*, says that Mary rode from the shore of Leith to the Palace of Holyrood, IV. 57.

[3] Addis, *Catholic Dictionary*, p. 508. After the expulsion of the Dominicans from their priory during the French Revolution, the Jacobins also derived their name from the fact that their headquarters were in this convent.

[4] John Major's *History*, p. 387; Scott. Hist. Soc.

[5] Wilson's *Memorials*, p. 17; Grant's *Old and New Edinburgh*, II. 233–4.

[6] *Martial Achievements of the Scots Nation*, by Patrick Abercromby (1711–15), II. 386.

without considering the question of nomenclature and the prohibition contained in the Franciscan statutes, there is a strong probability that Henry preferred the hospitality of the Black to that of the Grey Friars on the ground of sentiment, as the English Franciscans had from the first been supporters of the Yorkists. In 1402, Friar Roger Frisby and at least eight other English Grey Friars were hanged by Henry IV. for having spread the report that Richard II. had not died at Pontefract, but was alive in Scotland; and in 1460, in fear of massacre, the Franciscans south of the Trent openly sided with the Yorkists.[1] The third instance of confusion between the two Orders occurs in the narrative of the betrothal by proxy of the infant children of James III. and Edward IV. in the lower hall of the Preaching Friars in 1474—"*acta erant haec in camera bassa Fratrum Praedicatorum.*"[2] The scene was a picturesque one. After the preliminary declarations, the Earl of Crawford, as procurator for King James, taking Lord Scrope by the hand, plighted his faith that his dread Lord, the King of Scotland, would bestow his son, Prince James, in marriage upon the Princess Cecilia of England. The promise of the Scottish Earl was followed by a corresponding declaration by Lord Scrope. This ceremony is described as having taken place in the Low Greyfriars Church at Edinburgh,[3] whereas, from its situation on the slope of the hill, the Church of the Dominican Priory in Edinburgh was divided into an upper and lower hall, and therefore corresponded to the phraseology of the English account of the proceedings.[4] However, although it is impossible to accept these accounts which connect the friars with the first betrothal of James IV., the *Fyancells of Margaret* prove beyond doubt that, when James did ultimately wed an English princess, the friars played a part in the ceremony of welcome which the citizens of Edinburgh accorded to their future Queen. On 27th June 1503, Henry VII. proceeded

[1] Cf. *M. F.*, II. xxxvii.; *Collect. Anglo-Min.*, p. 185.

[2] *Fœdera*, XI. 823.

[3] Tytler, *History of Scotland*, IV. 207.

[4] It was also used as a royal guest-house before the erection of Holyrood Palace; and the Estates of Parliament, the Provincial Councils of the Church and the Court of Exchequer frequently met within its walls.

from his manor of Richmond to Coliweston, whence "on the eighth day of the monneth of July following he made the Princess Margaret to be conveyed vary nobly out of his realme, toward the right high and mighty and excellent prince, Jamys, be the grace of God, King of Scotys, in following the good luffe, fraternall dillecion and intelligence of marriage betwixt him and the said Quene."[1] On her progress northward, the Princess and her numerous retinue, under the charge of the Earl of Surrey, evoked much enthusiasm on the English as well as the Scottish side of the Border. On the 3rd of August the cavalcade reached Haddington, where she was lodged for the night at the Nunnery, accommodation being found at the Grey Friary for her retinue and their horses. Next day the procession "passed through the towne of Haddington, where sche was sen of the People in grett Myrthe," and in the evening they arrived at the Earl of Morton's Castle of Dalkeith. On the 7th, she made her formal entrance into the city riding behind the King on a palfrey of honour. The principal highway from the south at that time was known as the Loaning, afterwards as the Grey Friars or Bristo Port;[2] and here, says the English herald, "Ther war many honest People of the Town and of the Countre aboute, honestly arrayed, all on horsebak, and so by Ordre, the King and the Qwene entred within the said Towne. At the entrynge of that same cam in Processyon the Grey Freres, with the Crosse and sum Relicks, the which was presented by the Warden to the Kynge for to kysse, bot he wold not before the Qwene; and he had hys Hed barre during the ceremonies." The story of the "Fyancells" as narrated by the Herald is exceedingly quaint and interesting. Professionally a man of pageantry, he revels in the minutest details of the various ceremonies he witnessed, and has given us the most vivid portraiture that real history has preserved of Edinburgh and its citizens as they appeared four centuries ago.

[1] *The Fyancells of Margaret, eldest daughter of King Henry VII., to James, King of Scotland.* Written by John Younge, Somerset Herald. Leland's *Collectanea*, IV. 258–300, ed. 1774.

[2] *Infra*, p. 265.

During his short married life, James continued to show the same marked preference for the Observatine members of the Order which had characterised his early youth; and, as the "principal Protector of our sacred Observance," special services were annually celebrated by the friars of Aberdeen on the anniversary of his death at Flodden.[1] The message of sisterly sympathy conveyed to Margaret in her bereavement by Queen Catharine of Aragon was brought to Scotland by Friar Bonaventura, then Provincial of the English Observatines[2] and confessor of the English Queen, who was a member of the Third Order of St. Francis.[3]

During the minority of James V., we find Wolsey in correspondence with the recently founded Friary of Jedburgh;[4] while another official paper of the period conveys a hint that the Scottish Observatines sympathised with the middle and lower classes in a transient phase of the national humour, which, for the moment, was marked by a feeling of irritation against the results of the old alliance with France. Wolsey wrote to Dacre in June 1523[5] that Henry had heard from the "Freers Observant who have returned in Scotland," as well as from others, of the feeling against the French, owing to the damage done to the country through the alliance, and the nonfulfilment of the great promises made to them by Francis I. The letter does not perhaps give an absolutely definite indication in which direction their sympathies lay; but another letter, in the following year,[6] indicates the ascendancy of anglophile sympathies among the Friars of Jedburgh. While their home lay in ruins after the merciless raid by Surrey, son

[1] *Aberd. Ob. Cal.* Similar services were doubtless celebrated at his favourite friary in Stirling, if not also in all the other Observatine friaries.

[2] *Henry VIII. S. P.*, I. 4549.

[3] Davenport, *Hist. Minor. Prov. Angl.*, p. 41; *Henry VIII. S. P.*, VI. 54. In her will she expressed a desire to be buried in an Observatine convent, and "that ornaments be made of my gowns for the convent where I shall be buried." Her request was ignored. *Ibid.* X. Nos. 40 and 284.

[4] *Henry VIII. S. P.*, III. 447.

[5] *Ibid.* III. No. 3114.

[6] Sir W. Bulmer to Wolsey, 24th May 1524; *ibid.* IV. i. 364.

of the victor of Flodden,[1] the Warden received permission from Sir W. Bulmer to preach at Norham;[2] and when there he suggested that Henry VIII. should write to his nephew advising him to assume the government of his kingdom. The mutilation of this letter unfortunately deprives us of an interesting adminicle concerning the religious sympathies of James V. during boyhood; but, in conjunction with his early choice of an Observatine confessor (1531) and his letter on their behalf as Protector of the Order,[3] there is good reason to suppose that the Lords did not favourably view their attendance on the boy-king. In 1524 they had, however, emerged from this eclipse, as the Friar of Jedburgh, after cautioning the Englishman that neither the Queen Dowager nor the Duke of Albany must be made privy to the project, offered to carry the letter to James himself—"he hath specyall good favor to thaym."[4] Seven years later, English influence was exerted in Scotland through ambassador Magnus to effect a reconciliation between James V. and the malcontent Earl of Angus. Friar Cairns, Provincial of the Observatines, was chosen as intermediary to present the Earl's letter to the King, with its promise of service and Tantallon Castle, in return for the restitution of his dignities and heritage. The Franciscan secured a favourable answer from the King and Council, and thereupon drew up a declaration of his agreement with James, to which he appended the following curious certificate—"Ffrer Andro Cairnis apprevis the word on the tother syd *in verbio regio*, being the engagement which James twichand his breist promist *in verbio regio* till observe his said desiris." Extreme expedition was observed,

[1] *Diurnal of Occurrents*, 23rd September 1523, p. 8; Pinkerton, II. 219–221. James V. contributed two sums of £10 and £14 towards its "edificatioun and reparatioun."

[2] This abrogation of nationality among the Franciscans is by no means rare. Dunbar says that he preached from Derntoun Kirk to Calais. Scottish friars in the sixteenth century appear to have habitually passed through England—finding hospitable shelter in the English friaries—when proceeding to Rome or to the Chapters General of the Order; and, in the information laid against the Vicar of Newark in 1534, it is alleged that a Scottish friar preached in his church and condemned certain books as heretical. *Henry VIII. S. P.*, VII. 261.

[3] *Infra*, p. 93.

[4] *Henry VIII. S. P.*, IV. i. 364.

and two days later the Earl replied from Coldingham repeating his intention to carry out his promise, but adding the significant qualification that he would only speak for himself. The negotiations thereupon passed out of the hands of Friar Cairns, and after the failure of the projected reconciliation, James V. informed his uncle that the Douglas faction had refused to accept his conditions.[1] Another of the few ascertainable instances in which the Franciscans exercised their influence upon public affairs occurred in relation to the vexed question of precedence and superiority between the Archbishops of St. Andrews and Glasgow. James IV., "now being more fully instructed by his confessor, a religious father of Observance," gave his support to the Archbishop of St. Andrews, on whose behalf he wrote to Pope Julius II. explaining that "he has not, and never had, any desire to disturb or diminish the jurisdiction of the Archbishop of St. Andrews, more especially when it is under a weak and youthful Archbishop, the care of whom belongs to the promoters." He, therefore, desired His Holiness to respect his wishes therein, and to do nothing to the injury of the Primacy of St. Andrews.[2] One episode of this dispute occurred in 1535 in the Franciscan church at Dumfries, during a visitation by James Beaton, Archbishop of St. Andrews. On this occasion the official of the diocese of Glasgow appeared in the friary before a gathering of notabilities, and formally protested against the raising of the archiepiscopal cross within the town of Dumfries as a contravention of the privileges of the metropolitan church of Glasgow.[3] Father Hay, who refers to the rôle of the friars as intermediaries, doubtless knew of many other cases.[4]

A singular entry in the prosaic records of the Lord Treasurer illustrates the privilege enjoyed by a confessor when Scotland was still a daughter of Rome; and it is one of the few recorded instances which can be put forward in reply to the allegations of the reformers that

[1] *Henry VIII. S. P.*, IV. Nos. 5086, 5289; Pinkerton, II. App. 483–4.
[2] Ruddiman, *Epistolae*, I. 100–1.
[3] *Reg. Episc. Glasguen*, I. 550–51 (Maitland Club).
[4] *Ob. Chron.*

the Franciscans made free use of the penitent's secret to enrich themselves, without mentioning other motives more vile. In this instance, an Observatine of Edinburgh learned from the penitent thief that 63 ounces of the King's silver plate had been stolen and "placed in wed" for the sum of £20. The information was then communicated to the officials of the Court, and in due course the said sum was handed over to the friars as intermediaries in the restitution, the name of neither thief nor resetter being divulged—"Item delivirit to the Gray Freris for 63 unce siluer stollin fra the King and revelit to thaim in confessioune, be the Kingis precept, to the men that had the siluer werk in wed £20."[1] In 1531, the *Treasurer's Accounts* furnish conclusive evidence of the fact that James V. had followed his father's example in selecting his confessor from among the Observatines of Stirling,[2] and that he contributed to the worthy friar's violation of the Rule by paying for the hire of his horse when he summoned him from Stirling to St. Andrews to hear his confession at the Pardon. Shortly afterwards James appears to have confessed to another Observatine, Walter Lang of St. Andrews, concerning whom the young Earl of Glencairn wrote a Rhyme.[3] In it, Friar Walter is represented as a worker of fictitious miracles, and as the assistant of the Hermit of Loretto in his project of building another church in Argyle out of the offertories wheedled from the ignorant folk who had been deceived by his miracles. Friar Lang's pretended control over the supernatural had not, however, met with universal acceptance. On one occasion the "lymmars betuix Kirkcaldie and Kingorne" had sorely nonplussed the friar with their derision, and at this point the first defence of George Buchanan before the Portuguese Inquisition enables us to appreciate his discomfiture.[4] In course of one of the many disputations

[1] *Treasurer's Accounts*, 1522–27, p. 315. [2] *Ibid.* 24th September 1531.

[3] Knox, *Works*, I. 74–75.

[4] In the printed text of the *Defence* (p. 26) he appears as *Gulielmus Langius*, and this variation increases the existing confusion in regard to the Christian name. Foxe (*infra*, p. 101) attributes the martyrdom of Henry Forrest to Friar Walter Laing; Dr. Laing suggests that Walter is a mistake for William, and therefore identifies Friar Walter Lang with Schir William Layng who was King's chaplain

concerning the existence of Purgatory, the Franciscan had undertaken to prove its existence, and in satisfaction produced a man who asserted that a departed soul had appeared to him and affirmed its existence. The fraud excited great comment, and Lang's reputation suffered so severely from the exposure that he was no longer privileged to hear his sovereign's confession :

> "And to his fame made sic degressioun
> Sensyne he hard not the Kinges confessioun."

The succeeding lines of the Rhyme convey the hint that the Order bore him no goodwill for the ridicule that he had thus incurred :

> "Thoicht at that tyme he came na speid
> I pray you tak guid will as deid;
> And him amongst yourselves receave
> As ane worth mony of the leave."[1]

In this decade the ranks of the Scottish Franciscans were materially strengthened by the arrival of several companies of English friars, who sought refuge across the Border immediately after the suppression of the English friaries.[2] Their numbers were increased during the next few years, and as late as 1541 three English Observatines—"Englishmen rebels reset within Scotland"[3]—were the subject of the rancorous correspondence between James V. and his uncle which terminated in the English defeat at Haddonrig and the ravaging of Teviotside by the Duke of Norfolk, when the Friary at Jedburgh was destroyed on 27th October of the

and Maister Elymosinar 1539–1541. This appears somewhat arbitrary, as those were most unlikely posts for a Franciscan to hold. At Stirling, the King's confessor and chaplain were distinct persons (*Henry VIII. S. P.*, I. i. 520); so that there is no reason for supposing that the Friar Lang who appears in Glencairn's Rhyme, Foxe's narrative, and Buchanan's *Defence* was not one and the same person.

[1] There is at first sight a doubtful resemblance between this refined irony and the direct attack which Knox delivers against the abuse of miracles and of Letters of Cursing (I. 37–39); but the confirmation of the currency of this story disclosed by the *Defence*, written eleven years after Buchanan left Scotland, seems to place its authenticity beyond doubt.

[2] *Henry VIII. S. P.*, VII. No. 1607. Eighteen English Grey Friars arrived in Scotland in 1534.

[3] *Ibid.* XV. 96.

same year. The Scots Friars nevertheless continued to pass through England on their way to the continent under the protection of safe-conducts from Henry VIII.,[1] and in 1541 we find that the Scottish Provincial, Ludovic Williamson, and four other Observatines followed this route when proceeding to their Chapter General at Mantua. On the return journey two of their number were arrested at Newcastle, and the Privy Council was induced to intervene with an order to the Mayor to release "two Scottish Observant Friars and to restore their papers, which friars were restrained in their return from Mantua because the King of Scots' letters recommendatory were found upon them undelivered."[2]

The death of James V. and the appointment of the Earl of Arran to the Regency were followed by the ascendancy of the anglophile faction and the arrest of Cardinal Beaton. The statute anent the possession of heretical and forbidden books fell into disuse; Lutheranism was openly professed; and the English Bible was read in sympathy with the adoption of the new faith by the Governor. At this crisis in the Church, the Observatines took an active part in its defence. In Ayr, when the pursuivant arrived with the letters of the Council authorising the private reading of the Scriptures in English—"secluding nevertheless all reasonyng, conference and convocation of people to heare the scriptures read or expounded"—a Franciscan appears to have preached an inflammatory sermon against this innovation after the proclamation of the letters at the Market Cross. An open riot followed, and the magistrates, in the interests of peace, lodged the outspoken friar in the Tolbooth. An unsuccessful attempt to effect his liberation was then made by his supporters under the leadership of the young Master of Montgomery, eldest son of the Earl of Eglinton; and, when calm had been restored, the councillors regaled the town's friends with twenty-four shillings' worth of wine in recognition of their assistance in the worsting of the gaol-breakers.[3] In

[1] *Henry VIII. S. P.*, XVI. 370, James V. to Henry VIII., 30th December 1540.
[2] *Ibid.* XVI. 1168.
[3] *MS. Burgh Records of Ayr*, Dean of Guild's Account, December 1542. The pursuivant received 2s.

Edinburgh, the Observatines adopted the somewhat hardy tactics of attacking in their sermons the apostate Dominican Friars, Williams and Rough, then in the retinue of the Governor and described by Knox as "vehement against all impiety"; but the Franciscans had correctly gauged the sympathies of the townsmen, as distinct from the followers and troops attached to the Court. "The Toune of Edinburgh, drouned in superstitioun,"[1] stoutly defended her friars, and was greatly offended with ambassador Sadler, whom the burghers accused of inciting the infantry captains to join with the Governor's retinue in the projected sack of the Black Friary, on the day of his sudden departure from the capital.[2] On 4th September, the town bell gave warning of the danger, and men and women hastened to the defence in such a state of fury as the English agent had never seen.[3] Dundee, on the other hand, nourished less kindly feelings towards the friars. Reformation had been more deeply planted in her midst; and, on 31st August, with the sanction and connivance of the Governor, the citizens, under the leadership of one Henry Durham, proceeded to sack both the Grey and the Black Friaries—"forcing the gates, expelling the friars, breaking and destroying the ornaments, vestments, images and candlesticks; carrying off the silvering of the altars and stealing the bed-clothes, cowls, victuals, meal, malt, flesh, fish, coals, napery, pewter plates, tin stoups etc., which were in keeping in the said places."[4] Retribution for this cleansing of the town was soon exacted from "seven or eight of its honestest men," who were imprisoned on 21st November by orders of the Governor,[5] during one of the periodic changes in his political and religious sympathies. Cardinal Beaton had suddenly regained his liberty, and the premature régime of religious toleration was brought to an abrupt close by his reconciliation with the Earl of Arran within a week of the sack of the friaries in Dundee. The Governor's abjuration of the new faith appeared complete. Having admitted

[1] Knox, I. 97. [2] *Henry VIII. S. P.*, XVIII. ii. 133. [3] *Ibid.* XVIII. ii. 128.
[4] Indictment, *ad longum*, Maxwell, *Old Dundee*, 393–395.
[5] *Henry VIII. S. P.*, XVIII. ii. 425. Neither the local nor the central records afford any clue as to the assistance given towards the restoration of the Grey Friary, which was again destroyed during the campaign of 1548.

that the rioters had acted with his knowledge and consent, he "was accursed by all present," and adjudged to do public penance in the convent of the Grey Friars at Stirling for this sacrilege. On the following day the whole court assembled to witness the vice-regal penitent's oath—"That he shoulde never doo the same againe, but support and defende the professon and habit of mounks and freres and such other"[1]—which preceded his absolution by the Cardinal in person. Thereafter mass was celebrated, and the sacrament administered by the friar priest; and in the afternoon the political aspect of the submission was completed by a voluntary undertaking never to do anything without the advice and consent of the ecclesiastical prince who had thus humbled James Hamilton, next heir to the Scottish throne.[2] Before a year had passed, the Stirling Friary was again the scene of an interesting, if somewhat obscure, episode in history. The Queen Dowager's faction, considering the moment propitious for her usurpation of the Regency, met in the friary on 3rd June 1544 under the pretentious title of a "Convention of prelates, earls, lords, barons and other nobles," and addressed a summons to the Governor to appear before them upon the 10th, that he might accept their ordinance and articles and concur with the Queen in the government. In pursuance of this formality the Guisans again assembled in the friary at ten o'clock on the appointed day, and, after awaiting the Governor's presence or answer until midday, solemnly suspended him from office and installed the Queen Mother in his place.[3] The sequel of this false move, the rehabilitation of the Dowager in the eyes of the Scots, her quarrel with her family, and the personal privations she voluntarily endured in the maintenance of

[1] On 10th September 1543, he granted Letters of Protection to "the Friars Preachers, Provincial, Priors and all and sundry their brethren and sisters of their Order within the realm of Scotland" (*MS. Reg. Privy Seal*). The Black Friars of Elgin produced their copy of the Letter in the Burgh Court, and it was registered in the Books of Court (*Hutton MSS.*).

[2] *Hamilton Papers*, II. 38; *Henry VIII. S. P.*, XVIII. ii. 181, 299. It seems reasonable to suppose that the sudden appearance in the Exchequer Records of an annual donation to the Observatine Friaries, under the designation of the "Governor's Alms," was connected with this incident.

[3] *Henry VIII. S. P.*, XIX. 664.

French supremacy in her brothers' interests, have only an indirect bearing upon Franciscan history. During the protracted duel between France and England, in which the domination of Scottish politics was the prize, the Grey Friaries suffered severely at the hands of the English. The Treaty of Edinburgh, which followed the repudiation of the English marriage by the Scots Parliament in December 1543, afforded much satisfaction to Francis I. of France, who considered it "the evident fruit of the expenditure of (his) 41,700 livres, no mean result, considering the said kingdom remains entirely outwith the will of the King of England, under which it was to fall":[1] to Henry VIII. it shewed that a more vigorous wooing was necessary to achieve his object. Hertford left Edinburgh "holly brent and desolate"[2] in May 1544, and on the return march an eye-witness wrote "we burnt a fine town of the Earl of Bothwell called Haddington with a great nunnery and a house of friars."[3] In pursuance of the general plan of campaign, approved of by the English Privy Council, Lord Wharton ravaged Teviotdale, after the return of Hertford. Jedburgh was surprised, pillaged, and burned in June 1544, the Observatine Friary sharing in the general ruin;[4] and, although it could only have been in a partial state of repair in the following year, it again appears along with the Roxburgh Friary[5] among the places destroyed in the Merse and Teviotdale by Hertford when engaged in avenging the defeat and slaughter of Eure at the battle of Ancrum Moor in the month of February preceding.[6]

During the military operations which terminated in the Treaty of Boulogne, the Franciscan houses also suffered severely. In his account of the siege of Haddington, Knox relates with naïve exaggeration the erratic course of an English shot which "redounded fra the wall of the Freir Kirk to the wall of Sanct Katherine's Chapell which stood direct foir anent it, and fra the wall of the said Chapell to the said Kirk wall agane so oft that thare fell mo than ane

[1] Bibl. Nat., Paris, *MS. Fonds français*, 17890, f. 28.
[2] *Hamilton Papers*, II. 369.
[3] *Henry VIII. S. P.*, 15th May, XIX. i. 533.
[4] *Ibid.* XIX. i. 762.
[5] Described as the "Freers near Kelso."
[6] *Haines State Papers*, I. 53.

hundredth of the French att those two schottis only."[1] The destruction of the burghal tenements during this siege also caused a serious loss to the Haddington Friars, who depended for their fixed sources of revenue upon the annual interest payable under bonds of ground rent secured over several of them. The yearly payments ceased or fell into arrears, and ere long the Friary Chapter was forced to resort to litigation and the tedious process of diligence then in vogue.[2] The Friary at Dundee was again destroyed by fire in 1548, and at Roxburgh more ambitious plans were put into execution to facilitate the English occupation. A fort was erected upon the commanding and defensive site formerly occupied by the Castle, the ruined friary lying on the east side beyond the walls of the burgh. In November the English captain, Sir Ralph Bulmer, roofed in a portion of the friary to serve as stabling for twenty horses—"I have brought timber from Kelso whitche hath made a ruffe at the Freraige, whereby thre fayr vautes are saved whitche will serve for 20 horses" —and for their protection he built a guard house at the friary gate, "which is better than sitting idle."[3] Perhaps the most interesting incident of the war, from the Franciscan point of view, was the execution of the Warden of the Grey Friars and other hostages for the town of Dumfries, by order of Lord Wharton, "for example sake and for their untruth and perjury against the most godly marriage between His Majesty our Sovereign Lord of England and the Queen's Grace of Scotland." The degree of this perjury however becomes somewhat attenuated when the nature of the oath is considered. Shortly after the Provost and townsmen had given their oaths, the Warden was ordered to meet Wharton at Carlisle, under threat of confiscation of the friary. Attended by two of his friars he obeyed this summons on the 22nd of October 1547 and "openly received the oath to serve the King, affirming that they had renounced the Bishop of Rome before they took the oath."

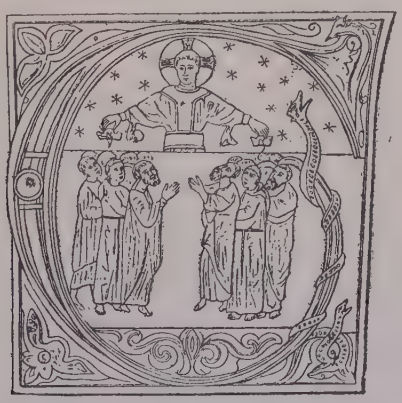
[1] *Works*, I. 223; *Cal. Scot. Papers*, I. pp. 123, 257.

[2] *MS. Burgh Records, infra*, p. 186, II. pp. 80 *et seq.*

[3] *Cal. Scot. Papers*, I. No. 98. In 1550, after the cessation of the war, the Privy Council ordered the fort to be "cassin down for sic motivis as the said Maister of Erskin can schaw." *Reg. P. C.*, I. 90.

On 12th November following, the remainder of the townsmen and the friars subscribed the oath at Dumfries Tolbooth—"the obedience of friar, priest and all was no little comfort to the Englishman to see; the friars are content to leave their habit and wear secular priests' gowns and will do anything I command them; they make suit for help not having wherewith to live except the demesne of their house which will find but for three and there are seven of them." The English Council thereupon instructed Wharton to cherish the friars who had taken the oath and relinquished the Bishop of Rome, and to bid them preach in secular weeds against the abuses which had crept in amongst them; but Durrisdeer and the backsliding of the assured Scots dispelled all hope of winning the western marches to the side of England; and, as a matter of reprisal, the English Warden proceeded with the judicial murder of his hostages, including the unfortunate Franciscan, in a field near Carlisle.[1] Meanwhile, domestic dissensions were paralysing English foreign policy, and the savage campaigns devised by Henry VIII. to knit the two countries together drew to a close, leaving behind them to the Scottish hierarchy a legacy of heresy that was to produce the final victory of the "Inglish menes opynyons."

[1] 17th March 1548. *Elizabeth Cal. S. P.*, 1601–03, Add. 1547–65, pp. 333, 336, 337, 339–341, 346, 372–375. The executions were carried out under the personal supervision of Lord Wharton's son.



The Grey Friars, in imitation of the Apostles, receiving the crown of the elect.
14th Cent. MS.

CHAPTER V

THE FRIARS AND THE REFORMATION THEIR APOLOGISTS

Contemporary standard by which the Friars are to be judged—Their pastoral rôle in the Scottish Church—Contemporary writings which differentiate the Friars, as Preachers and Confessors, from the Churchmen—The Franciscans as Inquisitors—Apostasy prompted by religious conviction.

THE leading question in Franciscan history in Scotland at this period is the connection of the friars with the Reformation. Record evidence becomes more abundant, and the student is at once drawn into the vortex of controversy in every line of investigation. On the one hand, is a tradition wholly inimical to the friar; on the other, is a mass of unimpeachable evidence contradicting in almost every point the statements of the post-Reformation writers who disparaged or vilified him. In brief, we are concerned with the apposition of the defamatory and the apologetic evidence now extant, with the purpose of reconstructing the outlines of friary life and defining the degree of credence to be attached to the accusations of luxury, hypocrisy, immorality and malversation, put forward by George Buchanan, John Knox and Sir Thomas Craig. Simultaneously, the Rule and evolution of Franciscanism claim attention in their historical aspect, because it is Franciscan discipline alone which sets out in clear relief the dual standard by which the friar must be judged. He was a churchman and a friar. There is, therefore, a comparative and an absolute standard to which he must conform. He stood in relation to two distinct ideals; and so the unfriendly critic is wont to portray him either as a decadent churchman, by which is meant a man of profligate life unmindful of his pastoral charge, or as a decadent Franciscan, that is, a churchman of greater or

less perfection as a pastor, who has abandoned the extreme asceticism and abnegation of self desiderated by the founder of his Order.

In the comparative sense, a radical distinction is readily established between the clergy and the friar, and the satirist is at once deprived of his subtle, but unhistorical, identification of these two classes, as a legitimate weapon of attack upon the friar. When so dissociated, we are able to appreciate the repute which the friar enjoyed in the parish or diocese, the voluntary character of his work, and his fidelity to Roman Catholicism in the supreme crisis of its history. Incidental to this differentiation, subsidiary, but no less real, distinctions are revealed, firstly between the Franciscans and the other Mendicant Orders, and secondly between the Conventual and Observatine Friars, considered as communities whose rules of life had one common origin. In the absolute sense, we are concerned with the Franciscans only as followers of St. Francis; and the central problem is that of rational modification of the Rule, which becomes an ethical question in the last resort on account of the apparently dual authority created for the Franciscan conscience by the Testament of St. Francis. That is, if obedience to the Testament were implied in the tripartite vow taken by the entrant, was he, though of the Roman Church, bound to disregard the dispensative authority of the Holy See amid the galaxy of moral problems that were called into being by the idealism of his Rule? Critics are not wanting who have decided that Franciscanism was degraded by papal interpretation; although they offer no solution of the moral and practical questions which determined resort to the Holy See. The decadence of the average friar is gauged in cryptic sentences that establish an abrupt antithesis between him and his prototype of the golden age; but this, again, is criticism which takes no account of the fundamental influences under which Franciscan discipline, distinct from Franciscanism considered as a form of practical Christianity, was modified by the ruthless hand of compromise.[1] If every cavil be justified by the standard of the

[1] Apostolic support of the Franciscans against the clergy who sought to exclude them from the Church, the theory of poverty, and the use of procurators,

heroic age, the greatest luminaries of the Order appear as Franciscan heretics of the darkest hue. The Spiritual who clung to the letter of the Testament found the anti-Christ in the head of the Church, which St. Francis had ordered him to serve; or, as John XXII. succinctly defined the friar's duty to the Church,—*magna quidem paupertas sed maior integritas bonum est, obedientia maximum si custodiatur illaesa.*[1] Cardinal Bonaventura abrogated his master's express command to yield perfect submission to the churchmen, when, as Minister General, he ordered the friars to preach and hear confession by apostolic authority in those cases where the Bishop or Rector placed his veto on their celebration of divine service. Roger Bacon, as we have seen, glorified the past to the detriment of the present; and he violated the cherished ideal of spontaneity both in the completion of his great work and in his longing for educational endowments.[2] How un-Franciscan these sentiments appear in comparison with the humility of St. Francis towards the churchmen, or with the spiritual chivalry of Friar Leo. Yet, they reveal the shackles of a *de facto* poverty that fettered this intellectual giant of the past. In historical retrospect, they merely re-formulated the theories introduced by the doughty Haymo of Faversham, who was at once an ideal Franciscan because he scourged the body to an untimely end, and a mutilator of Franciscanism because he sundered the brotherhood in twain and encouraged the brethren to acquire extensive glebes.[3] The devout John of Parma acquiesced in the Franciscan theory of poverty which has been contemptuously dismissed as the "transparent device of agents";[4] and Friar Berthold's adoration of contemplative Christianity is definitely revealed in his sermons.[5] Each of these five treasons were absolute, but they represented

as the principal phases of modification, can be traced directly to the life of St. Francis himself.

[1] *Quorundam exigit.*

[2] *Supra*, p. 41.

[3] *M. F.*, I. 34–5.

[4] Dr. Lea, *The Inquisition*, III. 1. The distinctly unfair statement which this writer makes concerning the condemnation of this theory by John XXII. is discussed at p. 445.

[5] *Supra*, p. 41.

distinct and inevitable phases of modification,[1] because the *agenda* of the Rule were fettered by the *cavenda* through improvident limitation of the future in a code that could be no more than an aspiration. When warning and precept were brought into harmony in a rational rule of life, the "absolute standard," present in the mind of the novice who took the tripartite vow, was a well-defined duty to avoid personal and to discourage corporate wealth, to observe his vow of chastity, to obey his Superior, to tend the sick and the poor, and to supplement the purely evangelical work of the Church as a voluntary auxiliary.

By the adoption of this comparative and absolute standard, the friar is not violently removed from his immediate environment, and historical justice is ensured to him in a study of the Scottish Reformation in so far as it concerns his history. Prior to that perplexing change in the social and religious life of our ancestors, there was much in the ecclesiastical régime that was not commendable to serious men and women of the time; and Scotland was no exception to the fact that a silent process of disintegration of the established order was going on within her boundaries. Every Christian country in Europe passed through an analogous phase; and that torrent of destructive criticism, directed against the greatest human organisation that the world has ever seen, was confined to no one country in particular. In Scotland, the material for criticism was ready to hand in the widespread ecclesiastical greed of revenues, in the general laxity manifest in the private lives of the churchmen, their failure to keep themselves abreast of the scholarship of their day, and a general disregard of the performance of the duties incumbent on them as pastors. The Church was not however moribund, although its salaried officials grudgingly dispensed crumbs of religion in an unknown tongue. In the offertories, tithes and mortuary dues, wrung from rich and poor alike in a manner but little

[1] Papal interpretation of the Rule in relation to the authority of the Testament; the intervention of the Holy See in the controversy between the Mendicants and the Churchmen 1217–1311; the theory of poverty in relation to the problem of organisation, particularly that of education; the justification of that theory in conscience; and seclusion in regular friaries. *Vide* Chapters XI., XII., XIII.

consonant with the charity that should reside beneath the stole, there was a fund sufficient to gratify the excesses of such as were profligate and to provide a trifling salary for a substitute. These substitutes were the Mendicant Friars who filled the confessional stalls and preached from the cathedral and parish pulpits in the vernacular, on occasion to the discomfiture of their patrons. In fact, by their habitual use of the vernacular, by their freedom of speech in the pulpit, by the striking contrast between the simplicity of their lives and the luxury enjoyed by the hierarchy, and by their conscientious discharge of duty as opposed to all but absolute neglect of it, the Observatine Friars, in particular, unconsciously exercised a not inconsiderable influence upon the formation of that anti-Romanist sentiment in which the distinction between dogma and discipline was originally ill defined. As churchmen, imbued with a desire to maintain the prestige of the Roman Church, there are therefore three points of view from which their influence upon the reform movement may be examined: the example which they offered to those among whom they ministered, the degree of their resistance to the establishment of the new faith, and the support given to its propagation by defections from the Order which had their origin in matters of conscience.

For the study of this problem we are fortunate in the possession of a certain number of contemporary Scottish writings in prose and verse. There are those remarkable letters written by James IV. and James V. to the Pope on behalf of the Observatine Friars. Looking to the circumstances in which they were written, it is not surprising to find that they accentuate the differences between the Observatine and the Conventual Friars. The latter did not practise the rigid simplicity of the Observatine, but he might none the less continue to be an efficient member of the Order; while the acceptance of ground annuals and other fixed sources of revenue for the common needs of his convent made him appear exceptional only in relation to his Observatine brother.[1] With this reservation, the letter

[1] Cf. Comparative Table of Revenues, *infra*, p. 140.

of James IV. to Pope Julius II. is a striking proof of the high esteem in which the Observatines were held by their contemporaries, and of the fact that it was a form of religion which appealed to the people. The attempt to coerce them into union with the Conventuals, and thereby to relinquish their self-imposed life of poverty in favour of a less restricted rule of conduct, is stated to be a calamity deplored by others, but more so by James himself on public grounds. Their zealous attention to the spiritual needs of the people counterpoised the neglect of the other churchmen; and, in the florid phraseology of this letter, the celebration of the sacraments and the diffusion of the word of God throughout the land were due to their care:

"Most Holy Father,—Could it have been believed that, in the pontificate of Innocent the Third, Providence would have so ordered events that the virtue of innocence would be made wholly manifest, and that religion, the mother of innocence, should have gathered such renown from the institution of the new Order of St. Francis, who, wonderful to relate, while he was a distinguished *Doctor* of humility and innocence, received the marks of the sacred passion of our Lord. So occupied was he with the divine mysteries that, in a heavenly manner, he established the unheard-of Rule of that holy Order, than which, by comparison, no other religious Order has hitherto shone with so holy a lustre either in perfection of life, in worship or in the holy rites; nor has any other made more perceptible and widespread progress in so many countries. So did the blessed profession of this most devout father shine both in doctrine and holiness that, as an open testimony of their humility, he gave the name of Minors to those whom he initiated into his sacred rites; and, in harmony with the simplicity of the Gospel, he clad them in garments of rough texture, girt them with a rope, and deprived them of shoes, so that these brethren might find a certain hope in the most High God, and, scorning the things of this world, entreat Him day and night in their vigils and pious prayers for the salvation of men. Herein, I think, lay the principal reason for the increase of this Order, as it gained ground everywhere in a wonderful manner. But, as the excellence of its profession and the number of its houses increased, so much the more bitterly blew the blast of envy against this new Religion (Order); and, as is said, they were attacked in diverse manners by those in whom aggression was least seemly, in order that they (the Observatines) might be leavened by the Conventual Friars of St. Francis, whose Rule of life was less severe, or that union or reformation might serve as a pretext for abandoning the observance professed by the (Observatine) Minors. Either alternative would have been a calamity too fearful to recall.

Alas! It would strike a blow at Christian piety, since either the freer fellowship of the old Order (Conventual) would prove the undoing of this most esteemed and circumspect Order, or it would banish mutual love from this pure and unsullied Religion. Such a wretched misfortune would assuredly have been deplored by others, but by us on grounds of public policy. First, because by their care the salvation of souls is here most diligently advanced, the negligence of others more fully remedied, the sacraments administered, and the word of Christ spread abroad by the lips of the faithful. Who can fail to perceive that it would be the greatest error to change this state of things? Again, this popular Religion, which has flourished eighty-nine years,[1] remains confirmed by the decrees of Popes and Councils and, by its stricter rule of life, is the bond of union among many who willingly relinquished parents, possessions and love of this world for a life of contemplation. To recall these friars against their will to a laxer or different mode of living is bad policy, unless public interests, as determined by the decree of your Holiness, should otherwise demand. But, Holy Father, what hope of a purer life does the debased herd hold forth, when the flock will obey neither laws nor authority for any length of time? Hence the unification of those friars, who regulate their lives by different standards, would seem to me a task of no small difficulty, and, from my experience of the customs of both, I pledge my faith to your Holiness herein. Moreover, forty and two years ago, my illustrious grandmother introduced this most circumspect Order, formerly unknown in these parts, and founded their first places;[2] thereafter my most beloved father enriched them, and finally my pious mother cherished them with all care. I, myself, as if bound by the bond of hereditary piety, have set free house after house of this Order; I have adorned them with suitable plenishings; to their care I have entrusted the purification of my conscience and the prime ardour of my devotion; and I have constituted myself their son and defender. To you, Holy Father, who are the watchful guardian of true faith and virtue, I have thought good to communicate these facts, so that you may perceive there is little cause to regret the presence of this Order in my kingdom, and the abundant fruits of its labours could not, I think, be easily expressed in writing. To you, therefore, as Guardian of the Christian Church, does this realm appeal and this people cry out; you, this Prince entreats, the Clergy obtest, and with them the devout faithful also plead that these most circumspect Friars of St. Francis may be permitted to continue to live in accordance with the Rule they have professed, and to observe their vows in freedom conformably to their lawfully established ordinances. Nay more, they plead that you may not, by an appearance of vacillation, seem to invalidate that which your pious and sacred predecessors approved of in their most excellent decrees. Much rather, if the feigned integrity or suggestions of some have impinged the fair name of this

[1] *i.e.* since the Council of Constance, *supra*, p. 48.

[2] Vide *Intelleximus te* of 1463, granted to the Observatines on the petition of Queen Mary of Gueldres, and criticism of its narrative clause, *supra*, p. 58.

Order, may your wiser judgment opportunely repel this as unworthy, so that the observance of the sacred rites of the blessed Francis may derive from you their former piety. Farewell, Blessed Father, and Excellent Pontiff. From our Palace at Edinburgh, the Kalends of February in the year of Salvation, the sixth above one thousand five hundred."[1]

The letter of James V., who also constituted himself Protector of the Observatines and chose one of their number as his confessor,[2] was a no less sincere recognition of their merits, and proves that during those twenty-five years they had not derogated from the high repute which they enjoyed during the life of his father :—

"To our most holy Master, the Pope.

Most blessed father,—after prostration at your holy feet, since the elevation and permanent prosperity of the state of religion in our kingdom has ever been the subject of our consideration, in so far as it lay in our power to provide therefor, and since the Order of Friars Minor, by the holiness and purity of its life, shines and is resplendent in the eyes of all men, and has ever been held in the highest veneration by our late illustrious father and ourselves, we do not think it outwith our duty to be the guardian, defender and Protector of that Order, and of its ordinances and statutes against malevolent attack, in so far as our requests and prayers are of avail, and to ask this favour of your Holiness and of all who can assist these friars. Because, indeed, they are fearful lest some stealthily creep in to trouble and disturb their peace, we willingly beseech your Holiness to preserve and confirm to them uninjured, unchallenged and intact, the rules, ordinances, statutes and privileges which have been granted to them by law and the Roman Pontiffs, and to permit no innovation to be made in their Order that may give rise to any scandal or increase the disquiet of those most diligent servants of the Lord. Peace now reigns among them all from the strife and dissension that had arisen between them and the Conventual friars, and the dispute has been solved by the supreme Pontiff, Leo X., who promulgated his Bull of Concordance,[3] wherein he ordained that there should be two sects of this Order of St. Francis, the one the Friars Minor of Observance, over whom he desired there should be their own Minister, the other the Conventuals, with their own head to be called the Master of the Conventuals. And may it be as much your Holiness' pleasure in the future in nowise to alter the tenor of this bull,

[1] *Epistolae Regum Scotorum* (Ruddiman); *infra*, II. 276–278.

[2] *Treasurer's Accounts*, 24th September 1531. Payment for the hire of a horse "to ane Grey Friar of Striveling, *the King's confessor*, to ryde to Sanct Androse to heir the Kingis confessioune at the pardone."

[3] *Omnipotens Deus.*

so framed, as it is fitting to grant their own guardianship to such pious and religious men, leading praiseworthy and venerable lives, and to whom the weight of our authority shall never be wanting, since God Himself would not fail them. May He ever in all time preserve your Holiness in safety and happiness.—From our Castle at Stirling, 6th March 1531. Your devoted son, King of Scots, James, King."[1]

These ornate eulogies, which savour of ecclesiastical rhetoric, were not, however, mere verbose pleadings. They referred to the grave problem in the religious life of the period arising out of the apathy of the clergy, and are amply confirmed by our great satirist, Sir David Lindsay, as well as by the independent testimony of Robert Henryson and William Dunbar. In contradistinction to the defamatory writings they constitute the *apologia* of the Scottish Friar, and, as a definite expression of contemporary opinion, they merit the closest attention in relation to these philippics, if only because they set out in clear relief the distinction which actually existed between the friars and the general body of the clergy. In the thirteenth century, St. Francis reintroduced preaching into the church service; in the sixteenth century it had all but become a lost art except among his followers and imitators—"Dean Thomas Forret preached every Sonday to his parishners the Epistle or Gospel as it fell for the tyme; whiche was then a great noveltie in Scotlande to see any man preache except a Blacke fryer or a Gray fryer."[2] Sir David Lindsay's Batchelor also refers to this monopoly of preaching by the Mendicants:

"Sirs, freirs wald never, I yow assure,
That ony prelats usit preiching:
And prelats tuke on them that cure
Freirs wald get nothing for thair fleiching."[3]

[1] *Infra*, II. p. 279. Analogous testimony is offered by Henry VIII. in his appeal to Leo X. on behalf of the English Observatines in 1514, before they had become his uncompromising opponents on the question of divorce and papal supremacy. He expressed his admiration for their strict adherence to the vow of poverty, their sincerity, their charity and devotion, adding that none battled against vice more assiduously or were more active in keeping Christ's fold (*Henry VIII. S. P.*, I. No. 4871). During the suppression of the English monasteries, Wolsey's spy in the Greenwich Friary reported that "the discipline is altogether too severe; the religious are corrected and punished for nothing."

[2] Foxe, *Actes and Monuments*, 1564. Knox, *Works*, I. App. V.

[3] *The Thrie Estatis*, ed. David Laing, II. 177.

During this ever increasing decay in religious life, the burden of the pastoral office had been gradually transferred to the shoulders of the Mendicants. In return for their services as active evangelists, the Bishops granted the friars a regular stipend in victual or money, known as the "Bishop's Charity"; the clergy of every diocese became liberal supporters of the Observatines by a yearly grant of alms;[1] and, in the case of Edinburgh at least, the Grey Friars received not only small annual donations from the burgh treasury and the various guilds, but also a recognised allowance of sowens beer for their preaching within the town.[2] At the same time, the friar preacher was no respecter of persons either in the thirteenth or sixteenth century,[3] and it is indeed a short step from the outspoken sermon of Friar Campbell—who told the Bishop it was his duty to be a preacher or "ellis he was but a dumme dog and fed not his flock but his awin bellye"[4]—to the public reproofs of the post-Reformation Church in Scotland and the "virulent fluency of words" which characterised the sermons of its early ministers. Every Franciscan sermon was not, however, a river of fire. The more kindly exhortation to penitence will often be met with in the chronicles of the Order; and Henryson gives an example of the manner in which the friar garnished his sermons with illustrations from the Old and New Testament or the lives of the Saints, as well as by fables, pithy stories, apophthegms and legends:

> "Adew, my freind; and gif that ony speiris
> Of this Fable, sa schortly I conclude,
> Say thow I left the laif unto the Freris,
> To mak exempill and ane similitude."[5]

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[1] *e.g.* Duncan Burnet, Rector of Methlick, William Crichton, Rector of Oyne, Rector Elphinstone of Clat, Alexander Gordon, Vicar of Mains, and others.

[2] Edinburgh Friary, *infra*, p. 286. *Vide* also the burghal allowances to the friars in Ayr and Elgin at pp. 360, 365.

[3] *Vide* series of papal constitutions which forbade him to attack the private lives of the clergy or to make direct reference to the delinquencies of any of his listeners. *Infra*, p. 424.

[4] Knox, *Works*, I. 47. Cf. Sir David Lindsay's use of this simile and Glencairn's rhyme which describes the Franciscans as "dogges that never stintes to bark." *Ibid.* I. 73.

[5] *Poems of Robert Henryson*, Ed. Scott. Text Soc., II. p. 219. G. Gregory Smith.

With an immunity that was denied to George Buchanan, Sir David Lindsay vigorously attacked the churchman's neglect of the Christian offices already emphasised in the letter of James IV. to Julius II.:

"Christ thocht no schame to be ane precheour,
And tyll all peple of trewth ane techeour.
Ane Pope, Byschope, or Cardinall,
To teche nor preche wyll nocht be thrall:
They send furth freris to preche for thame,
Quhilk garris the peple now abhor thame."[1]

Nor is he less explicit in his testimony to the value of the evangelical work accomplished by the friar:

"Gret plesour wer to heir ane Byschope preche,
One Deane, or Doctour in Divinitie,
One Abbote quhilk could weill his convent teche,
One Persoun flowyng in phylosophie:
I tyne my tyme, to wys quhilk wyll nocht be.
War nocht the precheing of the begging freris,
Tynt war the faith among the seculeris."[2]

He marvels at the Bishops' want of shame:

"To gyf yow freris sic preheminens
Tyll vse thare office, to thare gret diffame,
Precheing for thame in opin audiens."[3]

He holds up to scorn the simple parson who gloried in a life of idleness while the friar performed his parochial duties:

Spiritualitie

"'I have ane Freir to preiche into my place,
Of my office ye heare na mair quhyll Pasche.'

Person

'Thocht I preiche not, I can play at the caiche;
I wat thair is nocht ane amang you all,
Mair ferilie can play at the fut-ball,

[1] Sir David Lindsay, "Ane Dialog betuix Experience and Ane Courteour" (ed. David Laing, III. 104). In this poem, Lindsay, as a reformer, condemns both the priest and the friar for their adherence to, and teaching of, the Roman dogma and ceremonies.

[2] "Testament of the Papyngo," *ibid.* I. 99.

[3] "Ane Dialog," *ibid.* III. 38.

And for the carts, the tabils and the dyse,
Above all persouns I may beir the pryse.'"[1]

And, reminding the churchmen that:

"Esayas into his wark,
Callis thame lyke doggis that can nocht bark,
That callit ar preistis and can nocht preche,
Nor Christis law to the pepill teche,"[2]

he thus completes the case of "all the Spiritual stait":

"Pryde haith chaist far frome thame Humilitie.
Devotioun is fled unto the Freris,
Sensuale plesour hes baneist Chaistitie."[3]

In the natural course of events, the popularity of the friary confessional was commensurate with that of the Franciscan sermon. Three centuries had passed since St. Francis had revived the penitent's confidence in the confessional, and since St. Bonaventura had boldly attacked the exactions and corruption of the parish priests, who divulged the secret sin or forced the female penitent deeper into the morass. Nevertheless, the lines of Henryson show how real that confidence was in his time, and that the special sanctity attaching to absolution granted by a Grey Friar was closely allied to the personality of the confessor:

"Ze ar mirrour, lanterne, and sicker way,
Suld gide sic sempill folk as me to grace;
Zour bairfeit, and your russat coule of gray,
Zour lene cheik, zour paill pietious face,
Schawis to me zour perfite halienes;
For weill war him that anis in his lyfe,
Had hap to zow his sinnis for to schrive."[4]

The quaint couplet which closes this encomium was expanded into greater detail by Father Hay, whose statements we might naturally regard as of an *ex parte* character.

[1] Sir David Lindsay, "Ane Satyre," II. 168, 169–170.
[2] "Complaint of Schir David Lindsay," *ibid.* I. 54.
[3] "The Dreme," *ibid.* I. 37.
[4] "The Fox and the Wolf," *Poems of Robert Henryson*, II. 51.

But he is corroborated in every detail by another remarkable passage from Sir David Lindsay, which is, at once, a direct reply to the slanders of George Buchanan, a vivid illustration of the persistence of that gentle courtesy of manner so characteristic of the Franciscans, and a trite expression of that instinctive sympathy between penitent and confessor, so often met with in village communities of Roman Catholic countries:

Flatterie

"'Now, be my faith! my brother deir,
I will gang counterfit the Freir.'

Dissait

'A Freir! quhairto? ye can not preiche.'

Flatterie

'Quhat rak, bot I can richt weill fleich!
Perchance I'le cum to that honour
To be the Kings Confessour.
Pure Freirs ar free at any feist,
And marchellit, ay, amang the best,
Als, God hes lent to tham sic graces,
That Bischops puts them in thair places,
Out-throw thair Dioceis to preiche:
Bot ferlie nocht, howbeit thay fleich;
For schaw thay all the veritie,
Thai'll want the Bischops charitie.
And, thocht the corne war never sa skant,
The gudewyfis will not let Freirs want;
For quhy, thay ar thair confessours,
Thair heauinlie prudent counsalours;
Thairfoir the wyfis plainlie taks thair parts,
And schawis the secreits of thair harts
To Freirs, with better will, I trow,
Nor thay do to thair bed-fallow.'"[1]

In considering the activity of the Franciscans as repressors of the reformed faith in Scotland, our sources are palpably incomplete, and in one case almost untrustworthy.[2] The assizes held upon the heretics receive critical rather than narrative treatment in the *History of the Reformation*; and its author uniformly disregards these specious accounts of the preliminary investigation and denunciation of heretics

[1] Sir David Lindsay, "Ane Satyre," II. 42.
[2] Foxe, *Actes and Monuments* (Ed. 1564).

given by Foxe upon the authority of "the written testimony of the Scots."[1] The labour and diligence of the friars he says, "is never wanting in such matters." This cannot fail to occasion surprise in view of Knox's pronounced antipathy to the Franciscans. He had a personal knowledge of these events which stirred his countrymen so deeply; and, on occasion, he did abuse the Franciscans unsparingly as hypocrites and sycophants. Moreover, the slender justice which he accorded to the Mendicants is to be measured by his silence. Unwilling to acknowledge their merits, his condemnation of the Roman clergy does not differ in essentials from that of Sir David Lindsay. His narrative abounds in incidents appropriate for the disclosure of depravity in any form; but it contains neither the touches that brand the Franciscans as mean informers, nor the terrible charges of profligacy,[2] so lightly made by his contemporaries who were less well informed and less scrupulous in their statements.[3] At this period the Church was a law to itself, and in matters of heresy begat a state of conscience in its servants wholly different from that which is now accepted under a régime of religious liberty. In its origin the propaganda of St. Francis was received into the Church, and was fostered by her rulers, with the express purpose of strengthening them in the combat against the Italian and Provençal heresies of the early thirteenth century. We are not accustomed to look upon this kindly Saint as a Hammer of the heretics. Nevertheless, the charity of tolerance was foreign to his mental constitution, and the testamentary injunction, to imprison for heresy and certain forms of disobedience among the brethren, shewed how deeply his mind was impregnated with the ecclesiastical view of this problem. Within the limits of the same

[1] Also, *Ex Registris et instrumentis a Scotia missis.*

[2] In contradiction to George Buchanan's sweeping charge of ignorance, it will be observed that apostate Mendicant Friars are uniformly described as men of good learning.

[3] In this respect, a remarkable analogy is to be observed between the writings of Wiclif and his followers, on the one hand, and those of John Knox and his followers, on the other. In each case, it was the followers who launched the charges of gross immorality. Cf. *The Grey Friars in Oxford*, pp. 78–83.

instrument,[1] he laid the foundation of a heresy peculiar to the Franciscans themselves. In conjunction with Joachism, the extreme Spirituals developed his prohibition against glossation of the Rule into a complete denial of the dispensative power vested in the Holy See. This diminutive band of extremists thus appeared in the character of the first Protestants, not because papal dispensation gave rise to the scandals of simony and indulgence, but because it conflicted with their contention that the Rule of the Friars Minor was of divine origin.[2] Concurrently, the orthodoxy of the Order was tritely expressed in Salimbene's panegyric of Friar Leo of Milan—"He was a great persecutor and confuter and conqueror of heretics"; and the Observatine revivalists of the fourteenth century[3]—who recognised the dispensative authority of the Holy See in their return to the practical asceticism of the golden age—won the recognition of the hierarchy, as much by their strenuous combat against the Fraticellian heresies prevalent in the Umbrian fastnesses, as by the purity of their own lives. In this manner, the Franciscans and Dominicans were inseparably associated as "*inquisitores pravitatis haereticae*" during the thirteenth and fourteenth centuries; and they again assumed this rôle in the Scottish persecutions, although the Franciscans as an Order had long since abandoned it to the Dominicans. St. Andrews would appear to have been the centre of bigotry, and its Observatine Friars attained an unenviable prominence in the task of repression. Their Provincial Ministers, John Paterson and Alexander Arbuckle, Wardens Dillidaff and Maltman or Legerwood, and Friar Scott, gave ample proof of their intolerance in the rôle of judge and disputant.[4]

Patrick Hamilton, Abbot of Fern, is generally regarded as the first Scotsman who suffered martyrdom (1528) for his Lutheran convictions, and among the judges who committed

[1] The Testament.

[2] It was officially recognised as such in 1279 by Nicolas III., who codified the permissible modifications of it and defined the penalties to be inflicted upon glossators in the future. John XXII. suspended these penalties during the controversy *De paupertate Christi*.

[3] *Supra*, p. 46.

[4] St. Andrews Friary, *infra*, p. 291.

him to the flames was Friar Dillidaff, Warden of the Observatines of St. Andrews. Foxe attributes the martyrdom of Henry Forrest (1532–1533) to Walter Laing or Lang, alleging that this friar had revealed the victim's confession to James Beaton so that it was received in probation at the trial. His belief in the goodness of Patrick Hamilton, in the truth of his articles and in the injustice of the sentence, secured Forrest's condemnation;[1] and, when led out to the stake, he exclaimed "Fye on falsehood; Fye on false freirs, revealers of confession; after this day let no man ever trust any false freirs, contemners of God's word and deceivers of men."[2] Another charge of discreditable intrigue is made against the Franciscans by Knox in regard to the exile of the Dominican, Alexander Seaton, who displayed undue severity in the hearing of the King's confession and rendered himself obnoxious to the hierarchy by a series of Lenten sermons, in which the morality and scholarship of the Bishops suffered severely, if we may judge from the inimitable satire introduced into the account of the interview between James Beaton and Friar Alexander. Nevertheless, the confessor enjoyed a certain degree of immunity by reason of his favour with the King and with the people, "until the prelates laboured by all means to mack the said Frear Alexander odiouse unto the Kingis Grace, and easely fand the meanes by the Gray Frearis (who by thare hypochrisie deceaved many) to traduce the innocent as ane heretyk." And because he "abhorred all counsall that repugned to the filthy loostis of the flesh" this carnal Prince willingly subscribed to the wishes of the Bishops "affirmyng that he knew mair than thei did in that mater; for he understood weall ynewcht that he smelled of the new doctrin by such things as he had schewin to him under confessioun."[3] On the other hand, there is good reason for believing that James V. habitually confessed to the Franciscans,[4] and the doubt put forward by Dr. David Laing[5]

[1] *History of the Reformation*, I. App. v. 517–18. Knox himself makes no reference to this betrayal of confession.

[2] *Ibid.*

[3] *Ibid.* I. 45–49.

[4] *Ibid.* I. 75, supplemented by the *Observatine Chronicle*, the Treasurer's Accounts, and Sir David Lindsay.

[5] *Ibid.* I. App. VII. p. 532.

leaves the explanation of Seaton's exile and disgrace in the domain of controversy. A similar rôle is attributed to the Mendicants in their persecution of Friar Arth,[1] who had preached in Dundee "moir liberallie against the licentious lyifes of the Bishops nor thur could weall beir," had attacked the priest's abuse of the use of Letters of Cursing, and had exposed them as charlatans imposing false miracles upon the people as a means of augmenting their offertories. The outspoken friar was not on this account suspected of false doctrine; but his brethren, in fear of losing the benediction of the Bishops—"to witt, their malt and their mail and their appointed pensioun"—caused him to withdraw to England where he was imprisoned by Henry VIII. in defence of the "Paipe and Paipistrie."[2] In the strict inquisition upon heresy which marked the primacy of Cardinal Beaton, Friar Arbuckle of St. Andrews came to Edinburgh for the interrogation of Thomas Forret, Vicar of Dollar, one of the five who were burnt on the Calton Hill at Edinburgh in presence of James V. on 1st March 1539. Forret denied the remission of sins by the Pope, and refused his belief in the Virgin whom Arbuckle insisted should be acknowledged in the customary profession "I believe in God and in our Lady." The Vicar was content to believe in God and to believe "as our Ladie beleaveth"; and all doubt as to his fate was removed when evidence was given of his untempered denunciation of ecclesiastical rapacity, and of the illegality of tithes and mortuary dues represented by the cow and uppermost cloth.[3] Foxe supplements these native accounts of this trial by yet another illustration of the informing zeal of the friars. They were the recognised preachers of the time, and therefore envied the Vicar's eloquence in the pulpit, from which he shewed the mysteries of the Scriptures to the people in the vulgar tongue to make the clergy detestable in their sight.[4] To gratify their envy, they accused him before

[1] It has been found impossible to ascertain whether he was a Dominican or a Franciscan.

[2] *History of the Reformation*, I. 36–41.

[3] *Ibid.* I. 62–63; Pitcairn, *Criminal Trials*, I. i. 213–215; illustrations from Pitscottie and Anderson.

[4] Knox, I. App. V. 521.

the Bishop of Dunkeld; but, as a matter of history, Forret had been several times summoned to explain his doctrine before his diocesan Superior and the Bishop (*sic*) of St. Andrews, who both took a more lenient view of his case than Cardinal Beaton in 1539.[1] The attitude of the Franciscans in 1543 has already been alluded to, and in 1546 two of their number interrupted George Wishart during one of his sermons at Inveresk. The offenders were severely rebuked[2] by this eloquent reformer,[3] who ultimately refused his confession to "twa Gray fiendis" when sentenced to death at St. Andrews.[4] Shortly afterwards, the historian of the Reformation was himself examined in St. Leonard's Yards by a convention of Franciscans and Dominicans who selected Friar Arbuckle as their spokesman;[5] and, with the somewhat humorous narrative of the disputation which followed, the Franciscans disappear from contemporary record as active inquisitors. They may, however, be suspected of taking an active part in other cases of minor persecution or inquiry, as it is only natural to suppose that they were the instigators of the prosecution in cases where the friary image of St. Francis was insulted or desecrated by the Lutherans. In 1537, an image was hanged at Dundee or Perth, and the royal letters were sent to the two provosts, ordering the arrest of John Balcat and George Luwett who were suspected of the outrage.[6] Three of the martyrs at Perth about the year 1543 were also accused of treating the image with ignominious ridicule—"for hanging up the image of St. Fraunces in a corde, nailying of rammes hornes to his head, and a cowes taile to his rumpe"[7]—and, in 1544, two of the principal citizens of Aberdeen were imprisoned for hanging the image belonging to the friary.[8] The punishment meted out to the rioters in Edinburgh in 1558 is unknown; but the master of

[1] Pitcairn, *ut supra.*

[2] "As sergeants of Sathan and deceavaris of the souls of men."

[3] Knox, I. 135–36.

[4] Adam Wallace also refused to commune with two Grey Friars who had been sent to instruct him after his condemnation. *Ibid.* I. App. XII. 548.

[5] *Infra*, p. 293.

[6] *Treasurer's Accounts*, VI. 307.

[7] Foxe (Knox, *Works*), I. App. V. 524.

[8] *MS. Council Reg.*, XVIII. f. 320.

the watchman, who threw stones at the Black and Grey Friaries in June of the following year, was compelled to find a guarantee of £200 against the repetition of the offence by his servant.[1]

Apostasy among the Roman clergy in Scotland was of two distinct kinds. There were the voluntary cases in which the individual conscience alone was the determining factor; and there was the common case in which the churchmen elected to abandon their church rather than their country, when a definite choice was imposed upon them by the Act of 24th August 1560. It was the gravest crime in cloister life and the penalties were severe. Under papal[2] and royal enactments, the vagabond friar might be arrested wherever found, and thereafter surrendered to his superiors for punishment under the statutes of the Order to which he belonged.[3] On these occasions, the friars assembled to witness the whipping of the culprit with rods and scourges; while the psalms *Miserere mei Deus*, the versicle *Salvum fac servum tuum*, or the *Famulum tuum* and the *Deus, cui proprium est*, were solemnly recited during the proceedings. The Provincial Vicar, and in urgent cases the Wardens, had also power under the statutes to seize, imprison or inflict punishment on an apostate found within the province, being even accorded a special permission to invade sanctuary to secure the person of the offender. In Scotland, the earliest case of which any record has been preserved is that of James Melvin or Melvil, an Observatine Friar of St. Andrews, who became a convert to Lutheranism. In the month of August 1526 he came into conflict with his Superiors, and "had begun to disturb the peace of many in the Province of Scotland, and had summoned the Bishop of Moray to the Court of the Archbishop of St. Andrews." He was warned to desist from his suit until the next Provincial Chapter, but this only served to increase his determination;

[1] *Records of the Burgh of Edinburgh*, 3rd June 1559; *infra*, p. 283.

[2] *Provisionis nostrae*, 7th Feb. 1246; *Virtute conspicuos sacri*; *infra*, II. p. 445.

[3] *M. F.*, II. 105, xxv. *Vide* Inspeximus and Confirmation of Letters Patent, dated 7th February 1385, directing all sheriffs and others to arrest and deliver vagabond apostate Friars Minor to the Guardian of their Order for punishment; *Cal. Pat. Rolls*, p. 65.

and, after affixing a copy of his complaint to the doors of all the churches in St. Andrews, he boldly proceeded to Rome to lay it before the Pope. He received a favourable hearing and was granted permission to join the Conventual branch of the Order, until a statement of the true facts reached Rome and was laid before His Holiness by the representatives of Cardinal Wolsey. It was then recognised that Friar Melvil was simply an unruly son of the Church whose actions were an incentive to "contention and scandal." The Pope withdrew his former dispensation, addressed a request to James V. for his imprisonment or expulsion from the country, and, disregarding the petition of the Order to remit the case to a local court,[1] authorised the Provincial to banish the apostate until he had obtained papal permission to return. It appears that the Scots Provincial had sent two of his friars with a petition "to our Haly Fader, the Pope, for impetratioun of his auctorite aganis ane apostate of thair Ordour." In passing through England the two friars were detained by order of Wolsey, who sent to Rome and obtained for them at his own expense the "twa brevis for the weil of the said Ordour and aganis ze said apostate." James V. thereupon sent a letter of thanks to the Cardinal,[2] requesting that the brieves be returned to the friars or to the brethren of either of the convents of Greenwich or of Richmond, "because the samyn may further gude rule and repress ye insolence of yame that would eschew the yoke of God, and follow thair sensualitie." During the next few years, Melvil preferred exile in Germany to the penalties which awaited him in Scotland, and would appear to have still further developed his Lutheran tendencies. This became manifest on his return in 1535, under conditions that are far from clear, and his proselytising zeal caused James, at the request of the Friars Observant, to write to Pope Paul III., begging him not to restore Friar Melvil to his position as a Grey Friar, as he was "infected with Lutheranism which he attempts to spread among the ignorant people." At this point his case

[1] To consist of the Bishops of Aberdeen and Dunblane, the Abbot of Cambuskenneth, and the Provincial of Scotland.

[2] 20th March 1528.

disappears from the records,[1] unless he be identified with the James Melvil, rector of St. Catherine's at Rome, who was appointed Apostolic Preacher in 1534 and who reappears in the correspondence of 1543 as a Scotsman beneficed in Rome, abhorring the Bishop's part.[2] A second case occurred in the year 1532, in the person of Friar Alexander Dick, a member of the Observatine Convent in Aberdeen. This friar had adopted the views of the reformers, and fled for protection to some of his friends in Dundee, where he exchanged his habit for secular garments. Among his sympathisers were Provost James Scrimgeour, hereditary "Constable of Dundee," and his bailies; for we are told that "the constable, ballies and utheris of the said burgh tretit and held him with thame in seculare habit."[3] His presence in Dundee soon became known to the authorities, and the "King's letters" were issued by the Lords of Council to the Provost and Magistrates for his apprehension; while a deputation headed by Friar Lang was sent from St. Andrews to receive the apostate after his arrest. The sympathetic magistrates made a pretence of putting the warrant into execution and a disturbance then arose among the populace, who refused to allow the friar to be delivered up either to the Bishop of Brechin, or to Friar Lang and his companions. The latter were "bostit"[4] and threatened that, if they proceeded further, the people "suld pull thair cowlis our thair heides." Eventually, Provost Scrimgeour and Bailie James Rollock secretly conveyed the apostate friar out of the town to St. Andrews, where they agreed to deliver him to the Archbishop in the event of any charge of heresy being preferred against him: "Howbeit, thai wold nocht deliver him, nor bring him to the lycht and audience." A further demand for his surrender by the Friars of St. Andrews shewed that concealment was no longer possible, and the friar was then hurried back to Dundee, only to find that a fresh warrant

[1] Authorities, Originals in Pub. Rec. Off., London, and abstracts in *Henry VIII. S. P.*, IV. Nos. 3019–3021, 3348 and 4084; VIII. No. 469; Thorpe, *Cal. of State Papers*, Scotland, I. No. 68.

[2] *Henry VIII. S. P.*, VII. 150; XVIII. ii. 330.

[3] *MS. Acta Dom. Concilii*, XLIII. ff. 45 and 195; *infra*, II. p. 226. [4] Hustled.

for his apprehension had been issued at a meeting of the Lords of Council held on the 7th of May. Four days later, the provost and bailies of Dundee appeared in person before the Lords to answer to a charge of having "intromettit" with the friar, thereby "nocht allanerlie incurrand the Kingis indignatioune, but haldand ferme and stable, ratifiand and apprevand the spulze of the said freire Alexanderis persoun furth of his Ordour, and committand verray spulze thameselfis in the withhalding, treting, carrying and conveying of him." On their own confession, the Lords found that the Provost and Rollock had "done wrang in intrometting with the said freir, and thairfor ordanis thame to restore and deliver the said Freire Alexander agane owther to the closter of Abirdene or Sanctandros." The two other bailies were assoilzied, because "it was referit to thair aythes quhether thai intromettit with the said Freir or nocht, quhilkis maid faith that thai never intromettit with him." Of the subsequent history of Friar Dick, or of the punishment allotted to him, nothing whatever is known. The burgesses of Dundee were commanded by the Archbishop of St. Andrews to reaffirm their submission to the Church, and one incident of this ceremony took place in the Grey Friary there at eleven o'clock forenoon on 23rd June 1532, when, in the presence of the Provost, the Vicar and other dignitaries, James Wedderburn and John Wait purged themselves by their great oath, and those of twenty honest burgesses, of all the points of the heresy laid to their charge.[1] Under the year 1539, Knox draws attention to one "Johnne Lyn, ane Gray Freare who left his hipocryticall habit and the den of these murtheraris, the Gray Frearis,"[2] and some months later Simon Maltman, afterwards Warden of the Observatines of St. Andrews, formed one of the court at Glasgow that condemned a Franciscan, Jerome Russell, in spite of the entreaties of the amiable Archbishop Dunbar. Jerome Russell is described as a "young man of a meek nature, quick spirit and good letters," who exhibited no trace of fear in the presence of his accusers. At the stake he rallied the drooping courage of Ninian Kennedy, his fellow martyr, and thus answered the

[1] *MS. Protocol Books* (Dundee), I. f. 233; *infra*, II. p. 142. [2] I. 62.

"godless tyrants who rayled upon him": "This is your houre and the power of darkness: now sytt ye as judgeis and we stand wrongfullie accused and more wrongfullie to be condempned; but the day shall come when our innocency shall appeare and that ye shall see your awin blyndness to your everlasting confusion; go forward and fulfil the measure of your iniquitie."[1] In the absence of any indication to which branch of the Order Jerome Russell belonged, the letter of Lord Wharton to Thomas Cromwell on 7th November 1538, may afford no more than a hint that he was a Conventual Friar of Dumfries and therefore in the diocese of Glasgow—"There was at Dumfries laitlie one Frere Jerom, callid a well lernied man taken by Lord Maxwell upon commandment from the Bishopis, and lyith in sore yerons, like to suffer for the Inglish menes opynyons, as thei say, anepst the lawis of God."[2] So far as can be ascertained, he was the only Franciscan in Scotland who paid the last penalty rather than sacrifice his Lutheran convictions; and the double crown of patriot and martyr for the beliefs which Russell had repudiated may, perhaps, be reserved for the anonymous Warden of Dumfries who was hanged at Carlisle in 1548.

The statistics concerning the cases of apostasy, or abandonment of the Church, in which the ties of nationality and property interests were an important factor, will be more profitably considered in a later chapter.[3] As might have been expected, the Mendicants excelled the Churchmen in fidelity to their faith; and, while the Conventual Franciscan may perhaps claim no greater meed of praise in this crisis than the Dominican or Carmelite Friars, the Observatines stand out as an Order which homologated its previous resistance to the establishment of the new faith by accepting exile as their portion. There is thus extant a certain amount of purely Scottish evidence—having its parallel in England—which compels a recognition of the fact that the friar was pre-eminently the practical worker and representative of subjectivism in the religious life of our ancestors. As such, he enjoyed the respect of his contemporaries, because he

[1] Knox, *Works*, I. 63–66. [2] *Henry VIII. S. P.*, XIII. ii. No. 777
[3] *Infra*, pp. 157–160.

appeared as the ideal pastor at a time when idealism was almost extinct in the body ecclesiastic. There can, however, be little doubt that his popularity diminished during the era of persecution. Along with the Dominicans, the Franciscans bore the brunt of the first overt attack upon the Church during the ill-timed ebullition of Protestant sympathies in 1543, and the insults offered to the image of St. Francis in Perth, Aberdeen and Edinburgh were further indications of the trend of popular opinion. Are we to regard these manifestations as a genuine expression of lay opinion, or simply as the action of an excited mob acting under the impulse of the moment and quick to forget past services if, indeed, these were ever appreciated? Both motives are essential to any explanation. Locality was an important element, and these manifestations were intimately connected with contemporary politics; while it is beyond doubt that the active reformers regarded the Franciscan and Dominican organisations as the strongest bulwarks of the Church in this country.

Rose Window, Upper Church of the Convent of San Francesco at Assisi.

CHAPTER VI

THE FRIARS AND THE REFORMATION

THEIR DETRACTORS, GEORGE BUCHANAN AND SIR THOMAS CRAIG

Modern justification of *Franciscanus* as legitimate satire—Morality of the Friars—The unhistorical character of *Franciscanus*—Its Dedication—Records of the Lisbon Inquisition—Collation of the new evidence with traditional accounts—The *Somnium* and *Palinodia*—Sir Thomas Craig's accusation—Its limitation to the Friary at Jedburgh—Examination from Franciscan Revenues—Endowments—Legacies—Crown Pensions—Comparative estimate of Franciscan and Dominican Revenues—The Franciscans, the poor Clergy.

The reverse of the picture is presented in the writings of George Buchanan, John Knox and Sir Thomas Craig of Riccarton. The reputation and personality of the Scottish friar has indeed suffered severely at their hands; and, if their writings contain even a semblance of the truth, we are constrained to ask whether they refer to the same body of men. They pointedly raise the question which the Humanist himself puts—what manner of men these friars were?

> "What fancies wild these plaited garments hide,
> Below this garb, what wonders strange abide?"

The *Franciscanus* of George Buchanan has played an important part in the vilification of the Scottish Franciscan; and, during the prevalent phase of hero-worship, it has been justified as evidence of Franciscan depravity, in a manner scarcely consistent with the canons of criticism. Restatement of the satirist's own allegations has supplanted control from external evidence such as is now adduced. Its form alone remains unpleasing to the modern critic; while its legitimacy as satire is reaffirmed on *a priori* grounds. "Its author," it has been said, had no desire "to see the Papacy over-

thrown"; "and so far as the Church offended his ideals he was a reformer rather than an iconoclast."[1] "If there is a dominant note in Buchanan it is that of sound wholesome virility."[2] He had "the right to satirise the immoralities of the corrupt clerical brotherhoods."[3] "Like Erasmus, Buchanan was never more at home than with a cultured churchman of the old school."[4] "The Humanists were of necessity satirists, and Friars and Schoolmen their objects of attack; . . . the Franciscans had ceased to be worthy of their great founder. That the Franciscans should have been peculiarly obnoxious makes a situation that is almost too striking in dramatic effectiveness. For in the truest sense the Franciscans in their origin had been the Humanists of their time."[5] "The corruption of the Franciscan Order is a commonplace of history."[6] Yet, if George Buchanan had quarrelled with a Black Friar of Ayr, Dominican corruption would now be a commonplace of history. It is common knowledge that the Franciscan clung more closely to the ideals of his founder than any of the other Mendicant brotherhoods; and, in spite of the degradation of the ideal, their severest critic in modern times grants us that the Franciscans were "the real intellectual and moral

[1] *e.g.* his attitude towards the Confessional.

[2] *e.g.* Erotic Verse, The Arts of Seduction, as described in *Franciscanus*, and the *Detectio*.

[3] There were Regular and Mendicant brotherhoods, each distinct in constitution, rule of life, and observance of its Rule.

[4] *e.g.* Gavin Dunbar, Archbishop of Glasgow, who, however, was a generous supporter of the Franciscans, employed them in the work of his diocese, and left legacies amounting to £52 to eight of their friaries as against seven legacies amounting to £39, 13s. 4d. to the Dominican and Carmelite friaries. The fallacy here lies in selecting Gavin Dunbar as the average churchman of any school, and the critic obviously follows the lead given to him by Buchanan in the *Somnium*, *infra*, p. 125.

[5] Humanism is here defined as the "mastery of ancient speech and modes of thought to express the ideals and point the moral of the current hour." St. Francis was neither scholar nor critic; his Humanism was love of humanity or pure subjectivism achieved by self-abnegation and a total disregard of knowledge in any form. The problem is therefore a simple one. Within the limits of rational modification of the Rule, which every critic admits to have been inevitable, did the Franciscans remain the representatives of subjectivism in the Roman Church?

[6] George Buchanan, *Glasgow Quatercentenary Studies*, pp. 176, 183, 188, 199, 200.

force in Christendom," and that at a time when many regarded the future of Franciscan discipline with apprehension.[1]

The justification of *Franciscanus* is presented in a simpler form by Dr. Hume Brown—"If satire be a legitimate weapon at all, it can never have stronger justification than in the purpose for which Buchanan now used it."[2] Unless dogma be frankly accepted as the basis of criticism, this answer begs the question. The cause may justify the satire in a relative sense—on the supposition that the reformers were men who practised Christianity in a loftier spirit and with a wider conception of its real meaning than the friars whom they condemned. But the legitimacy of the satire, when considered as historic evidence of the manner in which the friar discharged his pastoral office, depends entirely upon its veracity. In reality, *Franciscanus* is a deliberate travesty of historical fact. It originated in feelings of revenge. It is replete with statements capable of immediate disproof. Its end is achieved by misrepresentation, and its dedication is a lasting memorial to its author's inventive genius. In only one instance is the advocate for the defence compelled to appeal for credence on the ground of the monstrosity of the charge. The awful account of the immorality of the friars, of the education which they received in the arts of seduction, of the manner in which they—the gudewyfis "heauinlie prudent counsalours" of Sir David Lindsay[3]—ridded themselves of a mistress who had ceased to please, and of the revenge which they were bidden to take upon a maid who resisted their advances, must be left to the belief or disbelief of the reader. The prevalence of immorality in the Church before the Reformation is frankly recognised by writers of every shade of opinion, and the controversy now concerns the degree of that immorality.[4] In an age when

[1] J. G. Coulton, *St. Francis to Dante*. This writer is particularly unfriendly to the Franciscans; but he admits that "decay is fatally involved in the ideal"; "its very intensity caused that recoil by a natural law as inevitable as gravitation"; "the worst treasons are traceable to the saint's own exaggerations." Dr. Lea also admits that the question of poverty was incapable of permanent solution. In short, abrupt antithesis inevitably leads to a fallacious judgment.

[2] *George Buchanan, Humanist and Reformer*, p. 97.

[3] *Supra*, p. 98.

[4] *e.g.* Abbot Gasquet; and Father Pollen, *Papal Negotiations*, Scott. Hist. Soc.

chastity was a byword among the laity, and the hierarchy intrigued for benefices as a provision for their illegitimate offspring, it would be idle to claim that the Franciscan vow of chastity was preserved unsullied, merely because no instance of moral depravity can now be adduced. But there is an evident compromise in the conflict between the evidence of George Buchanan and that of Sir David Lindsay. The unconscious apologist passed over cases which may have come within his knowledge, because the fraternity did represent moral rectitude in the Church; whereas the Humanist vindictively selected the exception as an illustration of the average. It is in the nature of things that there should be little positive evidence to disprove Buchanan's charge; and it is equally natural that, in his satire upon the Scottish Franciscans, he should select his two illustrations from the continent where he passed the exile of twenty years that preceded the composition of the satire. At least, the evidence of Lindsay [1] is as credible as that of Buchanan. When Devotion and Chastity had been driven from the Church, he tells us they both fled for refuge to the friars. Devotion remained with them:

> "Pryde hath chaist far from thame humilitie,
> Devotion is fled to the freris";[2]

but, as they were forbidden to receive women in the friary, Chastity betook herself to the Sisters of Siena on the Burgh Muir of Edinburgh:

> "Than Chastitie wald no longer abyde,
> So, for refuge, fast to the freris scho fled,
> Quhilks said thay wald of ladyis tak no cur."[3]

In other respects, the veracity of the satire may be controlled by positive evidence. Ostensibly it is directed against the

[1] He was personally antagonistic to the ascendancy of the Mendicants, and, as a reformer, declared that, were he king, he would make the four Orders wanderers upon the borders:

> "I sould gar mak ane congregatioun
> Of all the freris of the four Ordouris,
> And mak you vagers on the bordours."
>
> *The Three Estates*, II. 151.

[2] *The Dreme.*

[3] *Ibid.*

Franciscans; whereas it is illustrated to their prejudice in a grossly exaggerated manner from every known imperfection of the Roman Church as it appeared immediately before the Reformation. The friar is presented as the arch-enemy of religion and of reason, which the reformers propounded as the basis of their creed. He is part of an ignoble system. Monasticism is an effete and ridiculous form of Christianity.[1] The Franciscan is chosen as its representative, although history has spoken to the contrary with no uncertainty. It is admitted that in days gone by they were a worthy race; but the fact remains that they were the least monastic of all the Orders in the Church. They were the pioneers of personal liberty in fulfilment of religious duties, and, by reason of their disturbing individualism, the parishioner ceased to be thirled in conscience to the priest of his parish. Their lives were not spent "far from life's tumults, thinking of nought but bliss beyond the skies." They were essentially men of action, employing their energies in many directions, and delivering their impassioned sermons in the Scots vernacular,[2] now in the churches, now in the market squares, and now in the fields. We have seen them as missionaries in the highlands, perishing in the combat with the plague, and taking an active interest in the welfare of the poor; while their scholarship and practice of medicine, as then understood, only require to be mentioned as a commonplace of history, illustrated in this country by the number of Conventual Friars who were graduates of the University, and by the educational machinery maintained at St. Andrews and Edinburgh by the Observatines. Well-founded objection

[1] St. Francis shewed that life in the world was not incompatible with a religious life. But the Decretals present the contemporary conception of a religious life—"a monk cannot live outwith his cloister without sin any more than a fish can live out of water." The author of *St. Francis to Dante* (p. 3), aptly illustrates the material surroundings which compelled the Mendicants to congregate in friaries—"The cloister tho' only half a refuge, was the only refuge for the soul imbued with religion; society has now grown sufficiently decent to render retirement almost or quite unnecessary." *Vide* Analogous development of the Regular Third Order, *infra*, p. 388.

[2] Their sermons were always delivered in the vernacular. It was only when intended for publication that they were translated into Latin in order to preserve their literary form.

must also be taken to the description of the friary as a genial warren where the ruined gambler, the rake, the family outcast, the unfortunate litigant and the rascally ignorant stable boy,

> "Shav'd by a father in a cowl's disguise,
> Becomes at once a prophet, learned and wise,"[1]

were made welcome. Again, the skilful state of confusion which Buchanan effects between the friars and the churchmen inevitably results in a series of inaccuracies, which, when disproved, destroy the point of scores of lines. The friar is unknown to us "in full robes and gorgeous vesture drest." He possessed no "rich domains," a fact which may be controlled from the trifling acreage of the lands attached to the various friaries, as well as from the statement of his pupil in this school of attack.[2] Nor did he enjoy vast revenues produced by tithes and annual rents.[3] "They never rested until they had cast aside the cowl and twisted belt for the regal mitre and imperial pride," seems ill supported by the fact, that from 1231 to 1560 only one Grey Friar was elevated to a bishopric in Scotland.[4] Franciscan architecture in Scotland had also little in common with "temples grand and stately mansions," "the majestic spire," "the cloud capt temple and the lofty fane"; while the simple surroundings in which "they crammed their paunches and swilled the sparkling wine" are changed into "palaces that almost reach the sky." The customary drink of sour beer seems strangely transformed when we read that they quaffed their "wine from bright gold and gems"; and the "spoliation of the robber" is inconsistent with the course pursued by the Edinburgh friar, who secured the restitution of the royal plate. His duty as a citizen did not conflict with his duty as

[1] In regard to the Conventuals, reference may be made to the admission of George Hugo, and the refusal to admit the pauper, John Fleming, to the Friary at Haddington (pp. 184–85); while, in regard to the Observatines, the catalogue of names suggests no such state of matters.

[2] Sir Thomas Craig, *infra*, p. 126.

[3] The permanent endowments from laymen and churchmen in the possession of the sixteen Franciscan Friaries did not produce £200 Scots per annum: *infra*, p. 140.

[4] *Supra*, p. 31.

a confessor; the anonymity of the thief was preserved; and the pledgee received the sum of £20 Scots in return for the plate. The culminating and the gravest charge is, that the friars used the confessional as a means of general spoliation—"confession is an ever fertile field"—and freely divulged the knowledge which they acquired there. This charge will be more profitably considered in relation to the statements of Sir Thomas Craig; and, for the moment, it is sufficient to say that it absolutely conflicts with the high reputation which the friars enjoyed as confessors. The statutes of the Order forbade the imposition of a pecuniary penance in which the confessor or his friary could have any interest; and the disinterestedness of the friar confessor was common knowledge in those days, when the phrase—"to be worse off than an Observant if one could not accept a gift from a friend"[1]—almost attained the dignity of a proverb. "My opinion," writes the adviser of the Archduchess Doña Juana, "is that your Highness should not confess except to a friar who lives according to the rules of his convent, who has not a pin of his own and to whom your Highness cannot give anything nor show him favour, but only to the convent in which he lives, which ought to be of the Observant Friars. Such friars as those who live in a convent of the Observant Friars will give good account to God of your soul."[2] Lindsay and Henryson are no less explicit. The impersonal character of the friar, who was identified with no particular locality, and the confidence which the parishioner experienced on entering the friary confessional, were almost the Franciscan *raison d'être*.[3] The palliative of Buchanan's grossness lies in his adherence to the humanistic school, which introduced the hideous fashion of selecting as its models the literary forms of ancient Rome, in order to indulge in these brutal scurrilities; but the extent to which the practice was utilised by him, and his only too apparent zest in such compositions, are a grave blemish in the career of one who ranked among the greatest scholars of his day. Poets have found their highest ideals

[1] *Henry VIII. S. P.*, XIII. 78. Sir Thomas Andeley to Thomas Cromwell.
[2] *Cal. S. P.* (Spanish), Supp. Vols. I. and II. p. 51.
[3] *Confessor ignotus; infra*, pp. 422–23.

in woman; Buchanan offers as his contribution the two erotic odes on the "Shameful, shameless Leonora" and "Neoera." It cannot be doubted that these women never existed; but the apology only intensifies the general want of respect that the Humanist entertained for women.[1] In a similar manner, *Franciscanus* fills in the masculine side of his imaginative pictures. As then understood, these dreadful writings were regarded as simple *jeux d'esprit*,[2] or mere "intellectual exercises" in Romanesque versification; and as such they might well be accepted, were it not that they form the basis of an historical tradition now defended as absolute evidence against the Franciscan Order.

When we turn to the perplexing variations introduced into Buchanan's three accounts of the circumstances surrounding the composition of *Franciscanus*, little doubt remains as to his genius for invention, and the resulting inadmissibility of the poem as historical evidence. He was the sole authority for this mysterious incident passed over by his contemporaries; so that the *Autobiography*, *The History of the Reformation*,[3] and the letter of Sir Thomas Randolph to Master Peter Young on 15*th March* 1579, successfully baffled disproof of the glaring improbabilities contained in the Dedication to the Earl of Moray, until the recent publication of Buchanan's *Defence before the Portuguese Inquisition* in 1550–1551 furnished important clues to the evolution of the poem.[4] In the Dedication of 1564, the

[1] In his *Detectio* against Mary Stuart, the same manner of writing is to be observed. It matters little whether Mary was guilty or innocent, there can be no excuse for his wanton language. A recent writer says: "And the kindest view to take of the episode is that Mary was to his imagination as unreal a personage as the shameful, shameless Leonora herself." Mr. Charles Whibley, *Blackwood's Mag.*, August 1906.

[2] "The bestial ribaldry which our ancestors seem to have taken for wit." Hallam, *Lit. Hist.*, IV. 317.

[3] I. 71. Knox narrates Buchanan's imprisonment as a result of Franciscan intrigue; but he ignores the poems as contributing to it.

[4] *George Buchanan in the Lisbon Inquisition: The Records of his Trial*, by Guilherme J. C. Henriques, Lisbon, 1906. Quoted infra, *Inquisition Records*. In spite of this publication, the traditional account of the composition of *Franciscanus* is maintained in *George Buchanan, A Memorial*, 1506–1906 (St. Andrews), pp. 41, 54, 58, 145, and 433. At page 383 the new evidence is distorted so as to make Buchanan refer to the *Somnium*, the *Palinodia* and *Franciscanus* before the Inquisition in 1550. It is not so stated on the first page of the *Inquisition Records*,

satirist frankly disavowed sincerity as incompatible with his personal feelings towards the Franciscans,[1] and assumed the rôle of honourable victim. The royal disapproval of the friars appeared as natural in relation to the supposititious events of 1537–1539, as it was acceptable to the Earl of Moray in 1564, when Franciscan hypocrisy was axiomatical, and their Machiavellian diffusion of slander and thirst for the blood of heretics were equally certain of credence. A credible account of his disgrace at the Scottish Court in 1539 was thus replaced by mere abuse of Cardinal Beaton and of the Franciscans, who would have been more than human had they withheld their disfavour from the author of the *Somnium* or the *Palinodia*, and failed to exact the recognised price for the presumptuous attack of an opponent without influence at Court. But from the *Inquisition Records*, we gather that the amount of "correction," alleged to have been bestowed upon *Franciscanus* in 1564, should have been described as the task of original composition in surroundings that secured complete impunity to the lampoonist, now privileged to parade his sufferings as the author of the minor poems, known to us as the *Somnium* and the *Palinodia*. Incidentally, there is occasion to observe that the hopes of preferment entertained by the self-constituted "avenger of the public wrong" were dashed through his failure to distinguish between courtly levity and an inherent respect for the Order from which James V. chose his confessor. This Tyrant, the alleged instigator of these luckless pasquinades, approved the legitimate satire of Sir David Lindsay upon ecclesiastical discipline; but he shewed no mercy to the spiteful jests of the *Somnium* and the *Palinodia*, and so, in later days,[2] their author selected Cardinal Beaton as the purchaser of his life from the ungrateful patron. Nay more, Buchanan never was imprisoned in his own country, as Baelius[3] shrewdly suspected centuries ago; nor did he meet

and neither the first nor second defence conveys the slightest hint of James' abnormal desire for successive satires against the Franciscans.

[1] "There is nothing in Buchanan here of the prophet's or reformer's fulness of soul or their burning consciousness of a divine cause." Prof. Hume Brown, p. 96.

[2] *Autobiography*.

[3] He probably observed the inconsistency in Buchanan seeking safety in flight after he had been condemned to exile.

the Cardinal again in Paris "animated with the greatest animosity against him." That arch-enemy of Reason shunned the heat of Paris during August and September 1539,[1] and it is questionable if the exile passed through the French capital on his journey to Bordeaux, where he received an offer from Andrew de Gouvea some time after his arrival in the month of September.[2] As Bishop of Mirepoix, Beaton was indifferent to the fate of the heretic who had eluded his grasp in Scotland, and used so little influence with the inquisitors of France, that the Humanist taught in the Cardinal's College at Paris in 1544 after he had again embroiled himself with the Religious Orders, this time of Gascony, during his residence in the French Dundee.[3] Lastly, the relentless evidence of this record completely exonerates the Franciscans from any share in his persecution abroad. They were not even asked to communicate the nature of his poem against them. His trial proceeded upon evidence collected in Paris by the Licentiate Braz d'Alvide and by an Augustine, Friar Duarte. The leading witnesses were Dominicans, and the procurement of the whole proceedings was largely due to the ill-will of Diogo de Gouvea and a Dominican Friar, Joam Pinheiro, whose enmity Buchanan had incurred in return for a public scourging at Bordeaux and ill-timed jests at his hypocrisy in taking the habit of his Order.[4] A certain amount of hearsay evidence was brought forward by these witnesses concerning the Scottish heresy of 1539, so that the quick-witted Scotsman easily discounted rumour.[5] He mocked his judges with a translation of an old Scots epigram, and with an account of an imaginary *Palinodia* — "which cast no reflection on the Christian Religion" and contained an express protest that, "against the Order or the Good Franciscans of former times,"

[1] *Henry VIII. S. P.*, XIV. i. No. 1237 ; XIV. ii. Nos. 92, 167, 592, 684.

[2] *Inquisition Records*, p. 25. In the Dedication Buchanan asserts that he received the invitation in Paris.

[3] Bordeaux is described as "the perdition of all Gascony" by Diogo de Gouvea.

[4] *Inquisition Records*, pp. 14–15, 43–44, x.

[5] He excused a poem against the Franciscans to John III. of Portugal before accepting the post at Coimbra in 1547.

he had said nothing. The objects of his attack were the dissolute members of the Order who had broken away from the ancient rule.[1] Truly, in adopting a naïve attitude of honest doubt, until the balance definitely inclined towards the dogma of Rome; in appealing with the full simplicity of innocence to Papal Bulls that had never issued from the Chancery;[2] in swearing upon the Holy Gospels that he had confessed to a Franciscan priest before he obtained the Plenary Indulgence promised by this fictitious instrument;[3] and in fabricating Scottish history with which to impart conviction to a phrase,[4] George Buchanan handsomely redeemed the reputation of Scottish humour, when brought before that dread tribunal, the Inquisition at Lisbon. No jest was too elaborate. But there was no mention of *Franciscanus*, his supreme jest against the Church; and rumour of its impeachment of Religion could not have been confined to Scotland during that eventful decade. The *Palinodia* were mere burlesque concerning the Franciscans alone; and so the butcher, Jerome Oleaster, treated the scholar with the utmost kindness in this, the gravest crisis of his life.[5]

A collation of the following accounts may convince the reader of the manner in which *Franciscanus* has been imposed upon posterity by the parade of royal authority.

[1] *Inquisition Records*, p. 24.
[2] *Ibid.* pp. 9, 10, 37, 38.
[3] *Ibid.* pp. 7 and 8.
[4] *e.g.* the second visit of James V. to France.
[5] *Inquisition Records*, pf. xix. Considering the friendship which subsisted between Buchanan and Montaigne, it may be more than a literary coincidence that the essayist should have concealed his attack upon the Church behind similar extravagant protestations of conformity. The real meaning of Montaigne's essays was only discovered a century later when they were placed upon the *Index Expurgatorius*.

Deposition Before the Portuguese Inquisition, 1550–1551.[1]	Dedication of *Franciscanus*, 9th July 1564.	*Autobiography*, 1580.
During the criminal proceedings against the Lutherans in Scotland in 1539, Buchanan had reason to fear for himself on several grounds. *Nearly two years previously*, in the course of a dispute with a Franciscan upon the justice of Scottish procedure in trials upon a capital charge,[2] he replied to his opponent's slanders by *translating into Latin verse an old Scots epigram.* Thereafter they fought it out with mutual hatred and abuse.	*About thirty years ago*, when in the service of the Earl of Cassilis, (which he quitted before the end of 1535)	When he was thinking of returning to France, and *before* his appointment to instruct the illegitimate son of James V., (at latest January 1536)
During the investigation of a conspiracy at Court, the King decided that the Franciscans were in its secrets. *Cognisant* of the footing of hostility on which they and Buchanan stood, he compelled him to write a satire against them. As the Franciscans had persisted in traducing him in all manner of ways, he made his satire *somewhat more sharp than he intended*; but, perceiving that	he *wrote at his leisure* an elegy which gave *much unnecessary offence*[3] to the Franciscans, who retaliated by slanders that reached the ears of James V.	he had *written an elegiac poem* containing one or two things *which touched rather freely on them.* Although they were men making profession of mildness, they took it somewhat more hotly than, for a fault so trifling, seemed becoming in fathers so pious in the estimation of the multitude.
	Satisfied of their want of sincerity in the conspiracy under investigation and *cognisant* of Buchanan's private injuries, James V. very frequently ordered him *in the hearing of many* to write something against them and that also with asperity. He endeavoured to satisfy the King and not to irritate the Franciscans, by composing a poem *so ambiguous in words and sentences* that the	*After his return from France* (*19th May 1537*), James V. became convinced of the Franciscans' insincerity in the conspiracy and, *in ignorance* of Buchanan's quarrel with them, ordered him to write a poem against them. His poem was short and *capable of a double meaning.*

[1] *Inquisition Records.*

[2] We may suppose that Buchanan is here delivering a dignified thrust at the procedure followed by the Inquisition. The autobiography mentions that his accusers' names were withheld, and the Franciscan statutes also provided that, when one friar was accused by another of offences against the Rule, the Superior should withhold the accuser's name. The origin of the quarrel which prompted the *Somnium* is now unknown; but it is equally probable that the *Somnium* originated the quarrel. Without defining the moment, the *Inquisition Records* (pp. 5, 16) prove that he ridiculed the privileges of the Franciscan habit.

[3] The text of the *Somnium* is complete disproof of this statement; and the reason for this posthumous change in its date lies in the improbability of his having received the tutorship during his quarrel with the Franciscans.

Deposition before the Portuguese Inquisition, 1550–1551.	Dedication of *Franciscanus*, 9th July 1564.	*Autobiography*, 1580.
the Franciscans would use their influence with the bishops, and that the bishops would prejudice the King against him, he *only* gave the King *a part of the poem*, intending to suppress the rest *if that contented him. And so it was done.*	reader could *easily* interpret them differently.[1] He prepared only one copy for the King *lest the report of the circumstances should spread abroad.*[2]	
Silent.	*The King demanded a keener satire* that would not only pierce the skin, but penetrate the inmost recesses of the heart; nor was it difficult to write against men so wanton.	The King demanded *something more sharp and pointed.*
Silent.	To satisfy the King, although he *could never reconciliate the Franciscans*, he *finished* a poem on their lives, manners and rule. In the hope of *regaining their favour*, he again made out only one copy for the King.	Therefore he wrote more sharply against them in the poem now published under the title of *Franciscanus*, and formerly presented to the King in an *unfinished* state. Nor did his accusers (in Lisbon) know its nature for he had given away only one copy to the King of Scots, at whose instigation he had written it.
The Franciscans appealed to a noble mistress of the King, who spread various rumours abroad against him,[3] and he appealed for justice to the Bishop who, on	Through their foul-mouthed and abusive harangues and the friends of their faction in the Palace, they first drove him from his preceptorship and afterwards into exile.	His friends at Court informed him that he was aimed at, and that Cardinal Beaton was buying his life from the King with a sum of money.

[1] A definition which entirely agrees with the *Somnium*, provided the reader is deceived by the translations of Dunbar's lines; but it could not in any sense be applied to either of the *Palinodia*.

[2] A futile precaution considering the publicity given to the command to write the satire and the admission that the *Franciscans well knew of it* (Defence).

[3] The second-hand evidence concerning these rumours, which was collected in Paris 1549–1550 from witnesses who asserted that their informants were people who had been in Edinburgh, was to the effect that Buchanan was a deeply suspect Lutheran; that he had married a woman to a priest according to the new rites; that he advised eating flesh in Lent; and that the cause of his disgrace in Scotland was the eating of the Passover Lamb. He strenuously denied the last charge and asserted that his parents were "old" Christians. His judges passed summarily over this part of the indictment. The first part was doubtless an echo of the accusation brought against the Edinburgh martyrs in 1539 (Knox, I. 522).

account of the King's absence in France,[1] refused him justice through fear of the woman's power.

He then spoke freely against the King as the author of his misfortunes.

He explicitly *denied ever having been in prison in Scotland.* The King entrusted his examination to three secretaries with one of whom he lodged the night. The following day the King ordered him to seek a safe refuge and promised a pardon for all things past. He left Scotland, as the spy of James V., in the beginning of January (1539), reached London in the middle of Lent, arrived *in France in the month of August*, and set out for Bordeaux in the month of *September*.

When he had been in Bordeaux some time he received the invitation of Andrew Gouvea to join his teaching staff.

So, *having eluded his guards*, he set out for England. (The History specifies prison and escape by the window.)

Cardinal Beaton caused him to withdraw from Paris,[2] and sent letters for his seizure to the Archbishop of Bordeaux.

He quitted Paris for Bordeaux *on the invitation* of Andrew Gouvea.

During his exile the Franciscans persecuted him with the whole of their authority through *England, France*, Spain and *Italy*.[3]

[1] This second visit to France by James V. is inserted to impart reality to the phrase. There was no such visit.
[2] They did not meet in Paris, *supra*, p. 119.
[3] Complete disproof from *Inquisition Records* (*supra*, p. 119); but due allowance must be made for the exigencies of the climax that closes the recital of his wrongs.

The date and character of the *Somnium* and the rôle attributed to James V. are the outstanding inconsistencies revealed by this collation; and they are rendered more apparent by such minor points as the dates of Buchanan's departure from Scotland and of his arrival in Paris and in Bordeaux, the reasons for his quitting Bordeaux, his unfortunate jests at the expense of Friar Pinheiro, and the total absence of any reference to so important a poem as *Franciscanus* in any of the depositions collected in Paris. In regard to the implication of the Franciscans in the conspiracy of the Master of Forbes, this imaginary plot[1] served its purpose in effecting the judicial murder of the Master, who was at enmity with his accuser, the Earl of Huntly, and was cordially hated by James V. on account of his Douglas relationship, if not also on personal grounds.[2] As soon as Forbes had paid the penalty which he admitted he deserved on other grounds, James' animosity was changed into generosity towards his family; and there is neither probability nor the slightest positive evidence, beyond the writings of Buchanan, to connect the Franciscans with this act of private vengeance or with the *crescendo* of royal indignation.[3] Again, a scrutiny of the texts reveals the false measure in this *crescendo*. In 1547[4] there was a poem against the Franciscans. In 1550–1551 there was a translation of an epigram and a satire, sharper than was intended and divided into two parts.[5] In 1564 and 1580 there was an elegy, an ambiguous poem and a satire. But the epigram of 1550 and the elegy and the ambiguous poem of 1564 are one and the same poem—the *Somnium*. The satire (or burlesque) is the *Palinodia* in which no ambiguity lurks; and *Franciscanus*, "a product of maturity,"[6] represents a final edition of them all, adorned with a fictitious preface. The *Somnium* was an ambiguous or contradictory poem, incapable

[1] Supported by a posthumous charge of treachery against Forbes during the regency of the Duke of Albany.

[2] Pitcairn, *Criminal Trials*, I. 183–185, 199–200, 206–207.

[3] "There is no reason to believe that they were in any way his accomplices. Prof. Hume Brown, p. 92.

[4] *Autobiography*.

[5] *i.e. Palinodia*, I. and II.

[6] Prof. Hume Brown, p. 95.

however of concealing its meaning from the meanest Latinist.[1] Having as its model "How Dumbar wes desyrd to be ane Freir," it transformed his inoffensive lines so as to ridicule the friars by dwelling on the Christian virtues of the bishops[2]—*heaven is accessible to few hoods, it is scarcely considered a place for monks; I lie, then search the ancient temples and the honoured shrine of many a bishop will be discovered, the monument is rarely graven for the hooded flock.*[3] A formal similarity with the original is preserved in the opening lines and in a judicious translation of several others. Thus the lines—*Although the Order stand for truth, its cloak does not suit Buchanan's shoulders; the friar must be prepared to serve, while he prefers his native liberty,*—receive pungent contradiction in those which follow—*he who dons the Franciscan cloak must wear a blush upon a brazen brow, and manly modesty forbids us that; he must deceive, wheedle and for the moment act a part, but simplicity and a simple life is the poet's choice.* Finally, a translation of Dunbar's preference for a bishopric tempers the violent tirade upon the inaccessibility of heaven to the friar—*who passes his day after the manner of the indolent brute beast,*[4] *deluding himself that his*

[1] In his reply to the Inquisitors, Buchanan said that he answered St. Francis that he could not take the habit on account of the asceticism practised in the Order with fasts and scourgings, and that he would prefer to be of the Order of Bishops because there were more Saints in the Church who were Bishops than Friars. *Suppressio veri!* As is well known, the mitre was currently described as the passport to Hell.

[2] Dunbar desired the mitre because, as he admits, he was unfitted to be a Franciscan. Buchanan extolled the episcopal virtues with the purpose of discrediting the friars, and in the *Glasgow Quatercentenary Studies* this standard of comparison has also been adopted in justification of *Franciscanus* as a satire upon the Order.

[3] The friars were invariably buried within the friary precincts.

[4] Compare the similarity in Glencairn's *Ryme* :—

> "Our stait hypocrisie they (Lutherans) prysse,
> And us blaspheamis on this wyse,
> Sayand, that we are heretikes
> And fals, loud, liand, mastif tykes;
> Cumerars and quellars of Christes kirk,
> Sueir swongeouris that will not wirk
> But ydelie our living wynnes
> Devouring wolves into sheip skynnes
> Hurkland with huides into our neck."
>
> Knox, *Works*, I. 73.

nugae aethereae will win him entrance to the inner chamber,—and brings the poem to a characteristic close—*who rejoices in being miserable, let him don this cloak, but if my safety touches you so nearly, or if you wish me well and care for my soul, let any other proud man that pleases beg in this cloak; but give to me the mitre and the purple gown.* Clearly, "those insolent fathers" would take it ill to be thus mocked; and when a second flood of ridicule assailed them from the same pen in the autumn of 1538, it can occasion no surprise that they made a successful appeal to the Protector of their Order, and by "the usual charge respecting religion" silenced their detractor, in whom the leaven of Humanism was scarce distinguishable from that of Lutheranism.

Sir Thomas Craig of Riccarton, in the *Jus Feudale*,[1] has formulated another charge against the friars. It is a more serious accusation than the allegations of *Franciscanus*, by reason of the personality of its author, and the two specific cases to which he refers in the body of this sweeping indictment:

> "Concerning the Friars Minor, there is no question; professing, indeed, a simulated piety, they had no lands or estates, but they became very rich by interfering with wills under the pretext of piety, and from a zeal born of a silly piety. This was discovered after the unfortunate battle of Flodden; for those who were leaving to fight were threatened with every kind of evil unless they made confession to, and received absolution from, the Friars Minor. Notwithstanding, they entrusted to them all their money, muniments and everything of value which they possessed, expecting that, if they fell, those to whom they were entrusting them in all good faith would restore them to their children. But these, instead of responding to the trust reposed in them, applied the goods of those who fell in the battle to the purchase of land and the construction of a church and monastery for the men of their Order. And the same thing happened at the battle of Pinkie."[2]

Passing over the patent exaggeration of the Scottish army confessing *en masse* to the Franciscans, and of the trembling penitents entrusting their title-deeds and plate to their care, it is surprising that no protest was raised against this flagrant scandal for upwards of eighty years, and that it should be Craig, and not Sir David Lindsay, John Knox or George Buchanan,

[1] Completed 1603, published in 1655. [2] *Jus Feudale*, p. 122; Ed. 1722.

who gives the only account of it. In a subsequent chapter[1] the reader will have occasion to observe that it was a general custom among the laity to entrust their documents and valuables to the friars for safe-keeping. This practice continued uninterruptedly until the Reformation; and the complete silence of our judicial records clearly indicates that this general charge of malversation was apocryphal. In the first place, it is more than strange that an erudite feudalist like Sir Thomas Craig, the forerunner of Stair and Erskine, should credit a tradition which implied that the friars could acquire a marketable title to heritable property without the consent of the heir of their fallen patron. Mere possession of the ancestor's charter would be of little value to the friary disponee in a competition with the heir; and the three cases on record affecting their custodiership of documents have no relation to muniments entrusted to them by landholders "who fell in the battle." In each of these cases the Warden was confronted by two or more competitive claims; and, therefore, in view of his personal responsibility, he refused to surrender the document in his possession without a warrant from the Lords of Council ordering him to lodge it in the process.[2] Turning from negative to positive evidence, there are still graver doubts concerning the veracity of Craig's statement. The charge is a general one, and draws no distinction between the Conventual and Observatine divisions of the Order, which were entirely separate organisations. The last Conventual friary was erected at Kirkcudbright in 1455–56, so that this specific portion of the charge must refer to the Observatines who founded one convent, their ninth and last, at Jedburgh in the beginning of the sixteenth century. In regard to the date of this foundation, no definite conclusion can be drawn from the Bull of Erection, dated 31st January 1521–22,[3] as delay was a matter of ordinary occurrence in the Papal Chancery, extending in the case of the Lanark Friary to seventeen years. The conflict is, therefore, narrowed down to that between the statement of Father Hay—that the friary was

[1] *e.g. infra*, p. 373.

[2] Narrative of the suits of the heirs of George Haitlie and Sibilla Cathcart, *infra*, pp. 183–84, 353–54.

[3] *Supra*, p. 69.

founded in the year 1513, in the beginning of the reign of James V., by the nobles of the southern parts of Scotland—and the entry in the Treasurer's Accounts, which indicates a gift of two barrels of beer to the "friars of Jedburgh"[1] on 27th March 1505. These two dates might be harmonised by the assumption that, while the friars had settled in Jedburgh at a date prior to 1505, the friary itself was not erected until the year 1513:[2] but it may at once be said that no Franciscan house was erected in Scotland after the battle of Pinkie, and the second part of Craig's charge is absolutely devoid of foundation. A traditional grievance of ninety years' growth was doubtless present in the feudalist's mind when he formulated this charge. Such vague aspirations after the mythical wealth of an ancestor have been the lawyer's friend in every age; and those who credit his allegation must perforce believe that, within the short space of six months, the Order erected a friary out of the proceeds of the clandestine sale of the silver plate and other valuables entrusted to them.

The acquisition of wealth by testamentary robbery may be considered in two aspects, permanent endowments and legacies. During this period there were certain well-defined distinctions between the Rules of the Observatine and the Conventual Friars. The former professed a stricter form of Franciscan discipline than the latter, in that their proprietary instincts were controlled by the *Exivi* of Clement V. which explicitly forbade the enjoyment of permanent sources of revenue, the acceptance of an inheritance by an individual friar, and the prosecution of a lawsuit in vindication of any proprietary rights by a friary. A legacy might, however, be accepted by a Chapter, distinct from the individual friar, provided that its substance did not contravene the preceding conditions, and that it was bestowed in a licit mode;[3] and, under the *Merentur vestrae* of Leo X., the Chapter

[1] There were no Black Friars in Jedburgh.

[2] The only case in which the date of erection can be completely controlled is that of the Aberdeen Friary, which is given as 1470. The first friar reached Aberdeen in 1461, the friary was in course of construction in 1469, the charter was granted in the same year, and sasine followed in 1471.

[3] That is, through a procurator or spiritual friend to be expended on behalf of the friars.

was permitted to accept gifts of sacred vessels, books and church ornaments for the adornment of divine service, in as much as these expressions of piety did not contribute to the physical comforts of the friars. In the pre-Reformation records, not a single ground annual can be traced to an Observatine friary in Scotland, and the state of affairs disclosed at the Reformation conclusively proves that these friars had obeyed the letter as well as the spirit of their Rule in this respect.[1] Shortly after that event, the Collector of Thirds compiled a return of ecclesiastical revenues, as represented by the rental value of the religious houses, the annual rents in their possession, and the victual allowances payable out of private lands; and in the case of the friaries, the burghs were in actual or contingent possession of these revenues in virtue of Orders of the Privy Council and of Crown Charters granted in their favour by Queen Mary and the Regent Moray. Incidental to these returns, the Superiors of the houses were called upon to give up detailed rentals, and this census of ecclesiastical revenues was completed by the accounts of the intromissions of the burghs with the funds assigned to them for the purposes specified in their charters.[2] In each of these records we find the annual rents or victual stipend of the Carmelites, the Dominicans and the Conventual Franciscans, either in detail or aggregate; but we seek in vain for a single infraction of the Observatine Rule.[3] The legacy of the Observatines to

[1] Abbot Gasquet deduced the poverty of the English Friars from the trifling resources in their possession at the suppression of the friaries. One of his critics replied that this evidence merely shewed that the friars spent their income each year, and had alienated their permanent sources of revenue in anticipation of the Reformation. In regard to Scotland, this criticism would apply to the expenditure of casual charity and the income that might be derived from ground annuals; but it does not apply to the possession of ground annuals, whether constituted over landward or burgage property. In the former case, they were not transmissible against heirs unless mortified in a charter of confirmation or registered. That record is now in our possession. In the latter case, the magistrates had cognisance of their existence, because their participation was necessary to the constitution, transmission and extinction of the annual rents (*e.g.* Haddington Writs, *infra*, II. pp. 11–35); and a perfect example of their complete control over ground annuals from burgage property is offered in the cases of the Franciscan Friary at Dundee and the Dominican Priory in Edinburgh, which can now be controlled from four independent record sources.

[2] *MS.* Rental of Chaplainries, G. R. H., laid before the Lords Commissioners in August 1573 in compliance with an order of the General Assembly.

[3] *Vide* Edinburgh Friary, *infra*, pp. 274–76.

the new Church was the ruined buildings and their sites, which were applied to such public purposes as burgh hospitals, churches, courts of law and graveyards.[1] To take one example. In Perth, the Collector of Thirds obtained possession of Dominican annual rents producing £60 yearly, but entered nothing against the Observatines;[2] and, in 1569, after the burgh received a conveyance of the ecclesiastical revenues for the maintenance of its hospital, the accounts compiled by the Hospital Masters conclusively prove that the Observatines had owned no permanent endowments and that their sole legacy to the poor of Perth was a sum of £8 received from the Town Council for the use of the Grey Friary yards as a public cemetery.[3] In the case of Jedburgh alone no record of the revenues has been preserved: but in the remaining seven burghs in which the Dominicans and Observatines were settled, we have an exact repetition of the state of matters disclosed in Perth as regards the annual rents.[4] In comparison with their brother Mendicants, the Observatines took little heed for the future.[5] They lived from day to day on the produce of their glebes, and on the gifts in kind received from the Exchequer, the burgh authorities, the burgh guilds, the clergy, or their friends and supporters in the district; and food alone was accepted in those cases where the lay brothers hired themselves out as servants. In short, a persistent avoidance of the "detestable touch" of money sharply differentiated the Observatines from the other Mendicants, who detracted from the picturesque aspect of seraphic poverty by accepting a more radical modification of the vow of poverty. This feature may be observed in every phase of their history from the day when the Observ-

[1] Aberdeen, Ayr, Elgin, Edinburgh, Perth.

[2] *MS. Accounts*, annis 1561–62.

[3] "MS. Compt of Oliver Peblis and John Davidson, Maisters of the Hospital of Perth 1574–75," preserved in *Rentals and Accounts of Religious Houses*, G. R. H.; *MS. Excerpts Hospital Accounts*, Adv. Lib., Edinburgh; Dr. Milne, *Black Friars of Perth*, pp. 266–276.

[4] *Vide* comparative table, *infra*, p. 140.

[5] This was quite in accordance with the injunction of St. Francis, which was modified by Clement V. so as to permit the friars to hoard provisions in granaries or storehouses if experience had shown that such an expedient was necessary. *Exivi*, cap. 14.

ance took its rise at Brogliano. In testamentary charities they did accept small gifts of money; but there were occasions in which this characteristic was emphasised by the pious testator, who bequeathed a boll of meal or other measure of victual to the Observatine Chapter, while the legacy to the Black Friary was expressed in money. In the *Exchequer Rolls* the distinction is again all but absolute. From the earliest times, the Conventual Franciscans and the other Mendicants received the royal alms in money; while those granted to the Observatines were given in kind, such as chalders of barley and wheat, barrels of salmon, herring, or similar commodities.[1] In the case of Stirling alone, this victual stipend was supplemented by a pecuniary allowance of £13; and it was only after 1543 that the other friaries received an annual donation varying from £5 to £20, known as the Regent's alms.[2] However, in relation to formal observance of the Rule, it must be added that these payments were not made to the friars themselves. The theory of poverty required that the money should be given to laymen or churchmen who constituted themselves intermediaries between the Franciscan conscience and the exigencies of commerce; and thus our central records distinguish the Observatines from the other friars in repeated references to laymen as "procurators," "factors," or "provisioners of the Friars Minor," and to churchmen who "laid down money on behalf of the friars."[3] The Spartan character of the refectory fare and general conditions of friary life were mollified to some extent during the sixteenth century. Nevertheless, the scrupulous observance of the formalities demanded of the Observatines

[1] In the histories of the friaries, it will be observed that the Conventual Friars, like the Dominicans, received either a Crown Charter or Precept as the infeftment of their pecuniary allowance, and this instrument served as sufficient mandate to the Auditors or in those cases where a suit was brought against defaulting Sheriffs. With the doubtful exception of the royal Friary at Stirling, the Observatine grants from the Crown were not so secured. Consequently, payments were made in terms of precepts, often renewed from year to year, to the great inconvenience of the friars, who were repeatedly informed by the Auditors that future payments would be refused in the absence of a formal infeftment. *Exch. Rolls*, passim.

[2] Payments of those alms are recorded in the cases of Edinburgh, Stirling and Perth, but the defective condition of the *Exchequer Rolls* must be borne in mind.

[3] In particular, Stirling, Glasgow and Edinburgh, *infra*, pp. 370, 345, 284.

in conveyances of land,[1] and the habitual resort to spiritual friends,[2] clearly indicate that reasonable modification of the ideal was not followed by indifferent discipline among them. If, then, there be any truth in the feudalist's allegation, that testamentary charities were wheedled from laymen by the Observatines, these charities were never expressed in the form of annual rents or annual grants of victual from private lands; and the pecuniary legacies bequeathed to them were not applied to the purchase of those rents, as was the custom among the Conventuals. In conclusion, it is not unprofitable to contrast the statement of Father Hay with that of John Knox, their arch-enemy. He says: "Although in accordance with the Rule of the Blessed Father Francis, a three-fold manner of living is permitted to the friars—the proceeds of liberal offerings, humble mendicity, or the wages of their manual labour—the first mode of sustenance produced such plenty and abundance that they seldom resorted to the two others to obtain the necessaries of life. Hence, they had neither granaries nor cellars.[3] They lived solely upon the daily alms of the King, of the princes, bishops, lords and people of the realm, and such was the abundance in which they were everywhere given—even in the last days when Religion was tottering to its fall—that the Wardens of the convents were compelled to return much of the proffered alms to those from whom they had been received." As this chronicler became an inmate of the Friary at Stirling in 1551, he refers to a state of things contemporary with that thus described by Knox at Perth: "The first invasioun was upoun the idolatrie; and thareafter the commoun people began to seak some spoile; and in verray deid the Gray Freiris was a place so weall provided, that oneles honest men had sein the same, we wold have feared to have reported what provisioun thei had. Thare scheittis,

[1] Aberdeen, Edinburgh and Glasgow, *infra*, pp. 310, 272, 344.

[2] In a general statement, Father Hay says "so perfect was the system of providing for their needs through friends that money never entered into their thoughts."

[3] This statement must be accepted with reserve; and, in the absence of definite evidence to the contrary, Perth may be considered as the standard of the average, except during periods of famine and plague. Cf. Edinburgh, Dundee and Dumfries, *infra*, pp. 273, 223, 476.

blancattis, beddis and covertouris wer suche as no Erle in Scotland hath the bettir;[1] thair naiprie was fyne. Thei wer bot awght personis in convent, and yitt had viij punscheonis of salt beaff (considder the tyme of the yeare, the ellevint day of Maij), wyne, beare and aill, besydis stoare of victuallis effeiring thareto. The lyik haboundance was nott in the Blak Frearis,[2] and yitt thare was more then becam men professing povertie. The spoile was permitted to the poore; for so had the preacheouris befoir threatned all men, that for covetousness saik none shuld putt thare hand to suche a Reformatioun that no honest man was enriched thairby the valew of a groate."[3] This statement constitutes Knox's entire indictment of Franciscan wealth, Conventual or Observatine; and, when stripped of its rhetorical embellishments —his professed fear of not being believed and the comparison with the possessions of a Scottish Earl—it is not inconsistent with the preceding. His charge is that they were in possession of some good bedding and napery, eight puncheons of salted beef and other victuals, and some wine, beer and ale.[4] We know that one noble lady did bequeath her bed linen to the infirmary of the Friary in Ayr,[5] and Knox invites comparison with Dunbar in his description of life at the Stirling Friary—

> "O ye heremeitis and handkersaidilis,
> That takis your pennance at your tablis,
> And eitis nocht meit restorative,
> Nor drynkis no wyn confortatiue
> Bot aill and that is thyn and small."[6]

In harmony with this description of the friary fare, it is only natural to find that the records[7] afford ample proof

[1] The garnishing of Cardinal Beaton's dinner-table in 1544 is similarly described —"such aboundance of wyne and victualis besydis the other substance that the lyik riches within the lyik boundis was *nott to be found nyther in Scotland nor England.*" Knox, *Works*, I. 120–121.

[2] *Vide* Comparison between the Observatines and Dominicans of Perth, *infra*, p. 302. [3] Knox, I. 322.

[4] On the morning of 14th May 1543 several of the townsmen sacked the Black Friary and carried off the "grate kettill" in which the friars' breakfast was being cooked. The historian of the Black Friars of Perth aptly describes the procession through the town headed by this kettle as "a sort of advertisement of the conventual luxury and a call to make free with the stores which the friars had long been accumulating." Dr. Milne, pp. xxx and 229.

[5] *Infra*, p. 358. [6] Dunbar's *Poems*, Scott. Text Soc. ed., II. 112.

[7] Treasurer's Accounts, Stirling Friary.

of the fact that James IV. found it necessary to make extensive contributions to their larder, to enable the friars to extend hospitality to those who visited the friary; and it will be also noticed that Knox makes no reference to money or other signs of wealth—there was none for the rascal multitude to steal—and therein the Earl of Glencairn echoes the statement of his friend Knox—

> "Your Ordour handles na monye;
> But for uther casualitie
> As beiff, meill, butter, and cheiss,
> Or quhat that we have that ye plese,
> Send your Brethern, *et habete*
> As now nocht elles, but *valete*."[1]

The opportunity for disclosure of evidence of wealth or of the existence of profligacy among the friars was appropriate, and would have furnished a much more reasonable ground for the destruction of the friary than the recital of bedding and puncheons of salt beef. It is also remarkable that, in these respects, there is no further invidious comment in Knox's writings regarding the other friaries or their inhabitants. It is impossible to deny his knowledge of the current opinion regarding the conduct of the friars; but his silence is complete and honest.

The finances of the Conventuals were governed by more liberal laws. Like the Dominicans and Claresses, whose rules were modelled on that of the Franciscans, the Conventuals accepted modification to the extent of providing for their necessary and useful purposes in the present and the future. Consequently, the Bull of Concordance,[2] which finally differentiated the Observatine from the Conventual, homologated the existing privileges by its sanction to the acceptance of annual rents or inheritances and the sale of disjoined friary lands.[3] In the absolute sense, therefore, the Conventual Friars cannot claim to have observed the Rule in its strict interpretation; but, in relation to Craig's accusation, we are only concerned with the wealth that they acquired and

[1] Knox, *Works*, I. 75.

[2] *Omnipotens Deus*, 1517.

[3] The Scottish Observatines acquired no land other than their composite glebes.

with a comparative estimate of it. That is, they may have been good Franciscans, within the limits of their vow, if the Order represented the poor clergy of the Church and approximated more nearly to the ideal of poverty than the other brotherhoods who professed it in an equally modified form. The wealthiest Franciscan friary in Scotland was that of Dundee, while that of Edinburgh took precedence in the Dominican Order. In each case, an apt illustration of their permanent revenues can be offered with confidence from unimpeachable sources.[1] Dundee was the Conventual *caput provinciae*. It possessed no original endowment fund of greater or less magnitude, as did the parish church and other secular foundations in the town. In contrast with the variety of legal sources of revenue enjoyed by the parish clergy, as such, it had a mere *jus successionis* through the indefeasible right of each Conventual Friar in his family's goods,[2] unless the son at the close of his noviciate had formally abandoned his prospective share, in consideration of an immediate payment to the friary Chapter by way of a pious premium on his acceptance within the brotherhood.[3] The value of this source of revenue is purely speculative; although we may assume that it was more prolific than would have been the case if the entrants were of no higher social standing than stable-boys, ruined litigants and gamblers or the undesirable residue of humanity, as Buchanan would have us believe. Tithes, the uppermost cloth, the best beast and other perquisites derived from baptisms and marriage were by law excluded from the friary exchequer.[4] There was no discipline of the Church to compel

[1] *MS. Rental of the Hospital of Dundee*; *MS. Accounts of the Collectors and Sub-Collectors of Thirds*, 1561–89, and of the City Collector of Kirk Rents, Edinburgh; Rental of Prior Bernard Stewart, *MS. Books of Assumption*, 1561. *Infra*, II. pp. 337–371, 377–379, 373–377.

[2] *e.g.* Friar John, a Black Friar of Ayr, was served heir to his father and thereafter granted an infeftment of his land to the Prior on behalf of the convent, subject to the liferent of his grandmother (*The Black Friars of Ayr*, Ayrshire and Wigtonshire Archæological Society). *Vide* also *MS. Protocol Books* (Edinburgh), John Foular, I. f. 273, III. f. 267, where the Priory infeftment was burdened by the liferent of the friar's sister and mother. An example of unconditional infeftment will be found, *ibid.*, Vincent Strachan, III. f. 135.

[3] The practice followed by Friar Hugo of Haddington may have been general, and would not have been wholly at variance with the provisions of the *Exiit* and *Exivi*, that the Chapter might accept a small share of the goods of entrants provided that the gift was voluntarily made.

[4] *Infra*, p. 431.

attendance at its mass or confession to its priests. And, if the layman did elect to be buried within its precincts, the parish priest received one-fourth of the funeral offerings made to the friary, in recompense for this invasion of his monopoly by the Franciscans and Dominicans.[1] Deprived of these lucrative sources, we find that the Friars of Dundee enjoyed a revenue of no more than £140 Scots, derived from every source that can be considered permanent. Of this amount, £54, 7s. 3d. was represented by annual rents, the earliest of which dates from the middle of the fifteenth century, when the acceptance of annual rents was explicitly permitted to the Conventuals. The remainder was derived from three annual payments of £19, 18s. 4d. by the Exchequer, a chalder of bear worth £20 from the same source, and £40 which represented the annual value of the crop grown by their own labour on their arable land.[2] We also know that £39, 12s. 4d. of these annual rents were not the product of testamentary robbery either before or after Flodden, as we are now in possession of the original charters or contracts, which prove that they were special grants during the lifetime of the donor and distinct from his or her testamentary disposition of property. From the comparative point of view, the practical poverty of the Conventuals receives further vivid illustration from the lengthy list of annual rents gradually acquired by the chaplains of the parish and other churches within the towns. In the case of Dundee alone, the proportionate value of the burghal rents in the possession of the friars in 1559 was as low as one to twenty; while, among the Mendicant Orders, the Red Friars received six times as much as the Franciscans. The permanent revenues of the Dominicans far exceeded those of the Franciscans. Thus in Edinburgh, in the leading Dominican

[1] Franciscan statistics are here wanting, but it is probable that those of the Dominican are equally applicable to the Franciscans. Between 20th June 1557 and 5th May 1559, the Black Friars of Perth buried in their cemetery or church 17 of the laity, and received in return a sum of £7, 12s. Scots. The amount received for each funeral, including the expense of the customary procession, the mass and the cost of a lair, varied from 3s. 4d. to £1. The funeral of a child with a lair in the church cost 4s., that of Provost Methven's servant 10s., and the number of burghers who buried their wives in the Priory is truly remarkable. Accounts of Prior David Cameron, printed in *Black Friars of Perth*.

[2] *Vide* Revenues of Dundee, *infra*, p. 233.

Priory, the rental compiled by its last Superior, Bernard Stewart, disclosed a money revenue of £313, 14s. 2d.[1] and a victual stipend from private sources worth £22, 11s. 8d. These figures appear insignificant in comparison with the revenues of the regular houses; but, when a proportionate disparity is observed between the revenues of the remaining Black and Grey Friaries[2] in this country, we possess a valuable indication of the manner in which the two Orders interpreted the ideal of poverty set before them by St. Francis and his imitator St. Dominic. The Friary in Dundee sheltered a community of at least thirteen members at the end of the fifteenth century; and in view of its inadequate endowments their dependence on casual charity is only too evident, whether in the shape of food, of clothing fashioned by the needle of devout women or paid for out of the royal exchequer,[3] of offertories given at the daily masses which occupied the brethren of Dundee until noon, or of legacies which were indiscriminately represented by gifts of money, books and victual. The "Bishop's Charity," which amounted to the sum of four or eight pounds annually to the brethren of Ayr, was a source of revenue beyond reproach; so that, in the last resort, the Franciscans were essentially the poor clergy of the Roman Church, both in land and endowments. Their services were voluntary and they depended upon voluntary support. The degree of this support exasperated the reformers because it buttressed the strongest bulwark of the Church in Scotland; and for three and a half centuries it has been the fashion to point the finger of scorn at the Grey Friars, as men of wealth sheltering behind the hypocritical cloak of poverty. Professor Brewer has aptly remarked that their sphere of work was envied by no other churchman. Absolute poverty was the dream of an idealist; but the resources of their wealthiest friary in Scotland will stand the test of the severest examination from the absolute or the comparative point of view, if we have knowledge of fact and for one instant apply the canons of historical criticism

[1] Exclusive of the rents payable in terms of leases granted by them. *MS. Book of Assumption*, 1561.

[2] *Vide* comparative table, at p. 140.

[3] *Exch. Rolls*, 14th July 1454.

to the fabric of prejudice that has been raised upon *ex parte* statements.

Returning to the indictment framed by Sir Thomas Craig, the degree of support which the Franciscans received from *inter vivos* gifts does not fall within its scope; but the fascination that their humble creed of poverty exercised over the lay mind may be appreciated to some extent from the *Aberdeen Obituary*.[1] In regard to *mortis causa* bequests the accusation may be controlled in some detail from the fragments of the Registers of Testaments of the three dioceses which lend themselves to critical examination after the year 1539.[2] Considering the high repute which the Observatines enjoyed,[3] it is not surprising to find that they received a much larger share of testamentary charity than the Conventuals. But in criticising these bequests, it is only just that the personality of the donors should be considered. The clergy, we may presume, were beyond the influence of a "zeal born of silly piety." They were in a position to appreciate the value of the work done by the friars, and were not to be coerced into purchasing absolution or extreme unction from a friar priest, as Buchanan expressly asserts and Craig implies was the custom at the deathbed of a layman. Midway between the clergy and the laity were the members of the Third Order, less independent than the Churchmen it is true; but their testamentary bequests merely accorded with their deliberate sympathies during life. They correspond to-day to the parishioner or church member who takes an active interest in the affairs of his church, and contributes to its revenues in a greater or less degree. Keeping these distinctions in view, the forty-one legacies traced to the nine

[1] Summary, *infra*, pp. 332–341.

[2] MS. Commissariot of Dunblane, 1539 to 1547, and 1553 to 1558.
" Glasgow, 1547 to 1555.
" St. Andrews, 1549 to 12th December 1551.

Mr. Howlett's reference (*M. F.*, II. xviii.) to the Register of the Norwich Consistory Court, where every third will conveyed a gift to the friars, has no parallel in Scotland. Moreover, with the exception of legacies of £40, £30, £10, £10, 100 merks and two of 24 merks, the remaining legacies from laymen were invariably of trifling value. *Vide* summary annexed to each friary.

[3] The situation of their friaries in the large towns, as opposed to the smaller towns and villages colonised by the Conventuals, also contributed to this disparity.

Observatine friaries[1] show that the bequests of the Churchmen amounted to £181, 13s. 4d., four bolls of malt, two stones of cheese and some books; while the laity contributed £191, 15s., one load eight bolls of wheat, two bolls of barley and eight bolls of meal.[2] Thus, the testamentary charity of the clergy was an exact counterpart of the liberal support which they gave to the friary in yearly alms during their lifetime. May it not be accepted as a striking testimony to a prevalent belief in the *bona fides* of the friar and a practical recognition of the value of his work? The evidence is wholly unfavourable to the assertions of his traducers; and it cannot fail to bring the impartial mind into touch with the devout of bygone days, or to put another complexion upon the motives which prompted them to erect a friary in their midst, to furnish it with books, vestments and sacred vessels, and to provide for the sustenance of its occupants. In an age of vague accusations, that of Craig has taken high rank. His authority, if such existed, is now a mystery, and the grain of truth, which may have served as the basis of his generalisation at the close of the sixteenth century, cannot now be separated from the prejudice and exaggeration of his indictment. The sixteen friaries in Scotland were the product of voluntary support, and their maintenance depended entirely upon the continuance of that support. The annual rents in their possession did not produce an income of £10 for each friary; and, were the legacies which they received from laymen many times more valuable and numerous than they can now be ascertained to have been, the Order would still have remained the poorest of the great brotherhoods in the pre-Reformation Church in this country.

[1] Only four legacies, all by Churchmen, to the Conventual Friars appear among the 1070 legacies recorded in the three Registers as extant.

[2] The entries in the *Aberdeen Obituary Calendar* are included where they are defined as legacies. An indefinite legacy of £100 was given by the Earl of Moray in 1540 to the Black Friars, Grey Friars and poor of Elgin. The share allotted to the Observatines is unknown. *Infra*, p. 363.

DOMINICAN PRIORIES.				CONVENTUAL FRANCISCAN FRIARIES.				OBSERVATINE FRANCISCAN FRIARIES.				
	Annual Rents.	Victual from Private Lands.[1]	Crown Pension.		Annual Rents.	Victual from Crown or Private Lands.[1]	Crown Pension.		Annual Rents and Victual from Private Lands.	Crown Pension in Money.[14]	Crown Pension in Victual.	Municipal Allowance.
	£ s. d.	£ s. d.	£ s. d.		£ s. d.	£ s. d.	£ s. d.			£ s. d.		
Edinburgh.	313 14 2[2]	22 12 8	6 13 4	Dundee.	54 7 3	16 0 0[10]	19 18 4	Edinburgh.	Nil.	20 0 0	1 chalder wheat 1 ,, barley	1 last of sowens beer
St. Andrews	103 6 8	Unknown	20 0 0[3]	Dumfries	43 12 0[11]	Nil.	27 13 4	St. Andrews	,,	5 0 0	2 bolls wheat 2 ,, barley	Nil.
Perth . .	68 4 0	50 4 0	33 6 8	Haddington .	48 9 0	,,	13 6 8	Perth . .	,,	5 0 0	8 bolls wheat 8 ,, barley	,,
Montrose .	69 6 8	20 0 0	12 0 0[4]	Kirkcudbright	7 15 0	16 0 0	6 13 4	Aberdeen .	,,	Nil.	Nil.	,,
Aberdeen .	105 0 4	39 0 0	17 6 8	Lanark .	3 6 8[12]	Nil.	13 6 8[12a]	Glasgow .	,,	,,	1 barrel of herring	,,
Elgin . .	61 6 8[5]	94 0 0	32 0 0[6]	Roxburgh	Nil.	,,	13 6 8 4 0 0[13]	Ayr . . .	,,	,,	2 bolls barley	1 hogshead of wine
Inverness .	51 5 0	14 0 0	11 0 0	Inverkeithing	Unknown.	,,	0 2 4	Elgin . .	,,	,,	10 bolls wheat 10 ,, barley	1 bowe of salt
Stirling . .	10 0 0[7]	8 15 0	20 0 0[6]					Stirling . .	,,	23 0 0	1 chalder wheat 1 ,, barley	Nil.
Glasgow .	38 12 4[8]	12 0 0 34 bolls malt	23 6 8 16 0 0[6]					Jedburgh .	,,	Nil.	Nil.	,,
Ayr . . .	Unknown	Unknown	26 13 4									
Wigton . .	Unknown	10 0 0	10 3 4									
Dundee. .	16 0 0[9]	Unknown	Nil.									

Compiled from *MS. Accounts of the Collectors of Thirds of Benefices*, 1561–1589; *Books of Assumption*; *King's Patrimony*; *Rental of Chaplainries*, 1573; *Accounts of the Hospital Masters in Edinburgh, Dundee, and Perth*; and *Exchequer Rolls*.

[1] The victual in these columns has been converted into money on the basis of the fiars prices for the year 1567, which do not differ materially from the prices received by the friars for grain sold by them between 1550 and 1560. In the case of the Dominicans the private victual is doubtless capable of expansion, but no account is taken of the revenue derived from the grain cultivated by the friars on their own glebes or disjoined lands, or of the rents received from tenants of the Black Friars, *e.g.* Edinburgh.

[2] £73, 12s. 6d. of these ground annuals were secured over burgage property within the city wall; consequently, when the Priory revenues were transferred to the town in 1568 for the support of its Hospital, the magistrates secured possession of every ground annual within their jurisdiction (*infra*, II. pp. 365, 373–377). In this respect the analogy with Dundee is complete.

[3] £13, 6s. 8d. of this allowance was transferred to this Priory by a Charter under the Great Seal, dated 23rd January 1520–21, when the Priories at Cupar and Inverry or St. Monans were annexed to that of St. Andrews.

[4] Four barrels of salmon.

[5] This return ought perhaps to be multiplied by three, because the entry in the Collector's accounts leaves it in doubt whether his figures represent the whole or one-third of the revenues. In the case of Aberdeen the Collector's figures (£38, 6s. 8d.) only represented a third, because, on 30th September 1477, the Friars received a Charter of Mortification from James III. homologating annual rents previously constituted in their favour to the extent of £35, 1s. 6d., and the expansion of the revenues to £132, 7s. 8d. is proved from the assignation of the Priory Revenues to Marischal College. *Vide* analogous charter granted to the Dominicans of Edinburgh 14th May 1473, and the return made by the Collectors.

[6] Returns indicated by this figure were allowances of grain paid by the Exchequer.

[7] The collector returned £3, 3s., which was assigned to the minister; in 1573 the magistrates acknowledged the full amount.

[8] The collector returned £32, 4s. 5d. from the burghal ground annuals and those in the nether town of Hamilton and Avondale: the Harleian copy of the *General Assumption* (4623, pt. ii. fol. 9 B.M.) returns the money at £19 (probably landward ground annuals); Dr. Joseph Robertson disclosed the titles to annual rents worth £38, 12s. 4d., but he has failed to discover the infeftment of the victual returned by the collectors and the Harleian *Book of Assumption*.

[9] This sum represented the official, but incomplete, return in 1561.

[10] Provenance unknown.

[11] £21, 9s. 10d. of this sum is represented by the feu-duties paid to the friars in terms of the charters to parts of their glebe, disjoined lands, bridge toll and fishings granted by them in 1552 and the succeeding years.

[12] The collector specified this amount as one-third; but it appears as the only endowment in the Crown Charter, and is erroneously entered in the Accounts of the Collector-General as £3, 8s. 6d.

[12a] Assigned to the Parson of Lanark (*MS. Harl.*, 4623, ii. fol. 9).

[13] Nominal value: in the rental compiled by the last Warden it is stated that the burgh fermes then produced only £10.

[14] These allowances, with the exception of £13 given to Stirling by James IV., were instituted by the Earl of Arran about the year 1543.

CHAPTER VII

THE FATE OF THE FRIARS

The Beggar's Warning—Politics in the Reformation—The subjective character of the Reformation—The Greedie Askeris—Destruction of the Observatine Friaries—Immunity of the Conventual Friaries—Alienations of land by the Conventual Friars—Destination of their Friaries—The Pension allowed to recanting Friars—Recipients of the Pension—The Conventuals and the Observatines in the Reformation—Exile of the Observatines—Their settlement in Holland, France and Germany.

THE active campaign against the Mendicants was begun in January of 1559, when the reformers affixed a summons from the "whole Cities, Towns and Villages of Scotland" on the doors of every friary in the Kingdom, demanding restitution for "wrongs by past," and the transference of the friaries as "commodities of the Kirk."

"*The Blynd, Cruked, Bedrelles, Wedowis, Orphelingis, and all uther Pure, sa viseit be the hand of God, as may not worke, To the Flockes of all Freires within this Realme, we wische Restitutioun of Wranges bypast, and Reformatioun in tyme cuming; for Salutatioun.*

"Ye yourselfes ar not ignorant, and thocht ye wald be, it is now, thankes to God, knawen to the haill warlde, be His infallible worde, that the benighitie or almes of all Christian pepill perteynis to us allanerly; quhilk ye, being hale of bodye, stark, sturdye and abill to wyrk, quhat under pretence of povertie (and nevirtheles possessing maist easelie all abundance), quhat throw cloiket and huided simplicitie, thoght your proudnes is knawen, and quhat be feynzeit holines, quhilk now is declared superstitioun and idolatrie, hes thir many yeirs, exprese against Godis word, and the practeis of His holie Apostles, to our great torment, (allace!) maist falslie stowen fra us. And als ye have, be your fals doctryne and wresting of Godis worde (lerned of your father Sathan), induced the hale people, hie and law, in sure hoip and beleif, that to cloith, feid, and nurreis yow, is the onlie maist acceptable almouss allowit before God; and to gif ane penny, or ane peice of bread anis in the oulk, is aneuch for us. Evin swa ye have perswaded thame to bigge to yow great Hospitalis, and manteyne yow thairin be thair purs, quhilk

onlie perteinis now to us be all law as biggit and dottat to the pure, of whois number ye are not, nor can be repute, nether be the law of God, nor yit be na uther law proceiding of nature, reasoun, or civile policie. Quahirfore, seing our number is sa greate, sa indigent, and sa heavilie oppressit be your false meanis, that nane takes care of oure miserie; and that it is better for us to provyde thir our impotent members, quhilk God hes gevin us, to oppone to yow in plaine contraversie, than to see yow heirefter (as ye have done afoir) steill fra us our lodgeings, and our selfis, in the meintyme to perreis and die for want of the same. We have thocht gude thairfoir, or we enter with yow in conflict, to warne yow, in the name of the grit God, be this publick wryting, affixt on your yettis quhair ye now dwell, that ye remove furthe of our said Hospitalis, betuix this and the Feist of Whitsunday next, sua that we the onlie lawfull proprietaris thairof may enter thairto, and efterward injoye thai commodities of the Kyrk, quhilke ye have heirunto wranguslie halden fra us. Certifying yow, gif ye failye, we will at the said terme, in haile number, (with the helpe of God, and assistance of his sanctis in eirthe, of quhais reddie supporte we dout not) enter and tak possessioun of our said patrimony, and eject yow utterlie furthe of the same.

"*Lat him thairfor that befoir hes stollen, steill na mair; but rather let him wyrk wyth his handes, that he may be helpefull to the pure.*

"Fra the haill cities, townis, and villages of Scotland, the Fyrst day of Januare 1558."[1]

Within four days of the appointed time the crash came with awful suddenness. The fateful day, 11th May 1559, which witnessed the destruction of the religious houses at Perth, foreshadowed the doom of the ancient Church. During the following year, religion was subordinated to politics until, in the Treaty of Edinburgh, the alien champions of the Scottish reformers won their first victory in diplomacy over their time-honoured rivals of France. The hatreds and suspicions that rent the eldest daughter of the Church in this crisis did not show themselves on the frontier in a glorious *pro patria mori*.[2] The Cardinal of Lorraine and the Duc de Guise were the sole representatives of the truly national policy, that had been pursued by her kings, nobility and people to their evident advantage for three centuries. Catherine de Medicis, the erstwhile anglophile Duc de Montmorency, and the supine princes of royal blood paralysed the strenuous efforts of the Regency to offer more than an opposition of despair to the English designs on Scotland, that were to terminate in the

[1] Knox, *Works*, I. 320–21. [2] Carlyle, *French Revolution.*

dissolution of the "auld lyig and band." With that severance, the balance of power in western Europe entered upon the process of its remaking, and this country was deposed from the position of pivot that she had occupied since England withdrew her allegiance from the Holy See. The resultant humiliation of Catherine de Medicis by Queen Elizabeth and her advisers during two minorities, the nervous impotency of Philip II. in the Netherlands, and the griefs of the Papacy lie beyond the scope of Franciscan history in Scotland. There, the abolition of the Mass by the Act of 24th August 1560 was the logical sequence of the Treaty of Edinburgh. Meanwhile the English generals before Leith had been unable to extract either men or supplies from the country so long as the issue hung in the balance;[1] but the timorous prejudice of the populace had been actively fanned by the leaders of the revolution, who recognised that William Cecil and his hesitating mistress were irrevocably committed to the expulsion of the French from Scotland. In this crisis of his cause, the political sagacity of John Knox was only rivalled by the sincerity of his convictions and the stimulating influence of his virulent rhetoric upon the smouldering discontent of his partisans against the Church. Local manifestations against the religious houses thus preceded the era of military disaster and ineptitude before the walls of Leith with its diminutive French garrison. Nevertheless, the nation was more apathetic than in any preceding crisis in her history; and we seek in vain beyond the ranks of the new clergy for any strenuous enthusiasm in the task of reconstruction. Individual interests emerged, tempered by a sense of justice towards the vested and personal interests of the old clergy, despite the demand advanced by their successors for the transference of the Church patrimony that had won them no small measure of support in their recent crusade.[2] The wells of charity dried up. A horde of "unsaciabill and gredie

[1] Bain, *Cal. Scot. Pap.*, I. No. 553. Knox to Croft: "partly for lack of money, partly as men have no will to hasard we can make no number—so as you tender the cause, provide us with both men and money with all expedition."

[2] *Reg. of Church Convention*, pp. 30–31. Keith, *Affairs of Church and State.* It has been found impossible to ascertain whether the few annual rents in the possession of the Conventual Friars were regularly paid; but in the case of the

askeris"[1] ousted the needy parish minister and his reader. The noble, whose ancestor had been wont to endow his favourite chaplainry for the celebration of masses for his dead, either usurped the Kirk lands and tithes under a variety of pretexts and titles; or, with a greater semblance of justification, he maintained that the annual rents were no longer payable from his estate since they could not be devoted to their primary purpose.[2] The local laird was nothing loath to absorb the trifling friary acres into his domain, in virtue of the charter granted to him by the distracted Chapter during the excesses of civil turmoil; and his often generous contributions to the refectory fare were rigidly withheld from the representative of the new faith. The local authorities grudgingly provided for the minister out of the potential revenues at their command. On occasion, the maintenance of the burgh hospital and poorhouse, rendered necessary by the cessation of monastic charity,[3] was considered of greater importance than the increase of the parish stipend;[4] and the Crown grants of ecclesiastical properties within the burgh were all too often restricted in extent by peculation, fraudulent rentals or grants to some favourite at Court.[5] The burgher followed in the footsteps of his civic rulers. His first care was the concealment of the burden upon his tenement. For his building operations, the vacant friary became a convenient quarry from which he filched at will; or he freely accorded his approval to the erection of a new tolbooth,

Black Friars of St. Andrews it is clear that landholders had been withholding these annual payments for some years prior to 1560. Three instances occur in the brief rental given up by their Prior, John Grierson, in 1561—12 merks, 35 merks and £97 representing the accumulated arrears for three and five years. *MS. Book of Assumption*, Fife, 5th January 1561.

[1] *i.e.* the greedy Court favourites; *Privy Council Register*, I. 478.

[2] This contingency was not unfrequently provided for in Charters of Mortification granted in the sixteenth century. A Franciscan illustration is furnished in the endowment of twenty merks granted to the Friars of Dundee by John, Earl of Crawford, on 15th April 1506. These conditions were almost invariably ignored after 1560; but an exceptional case is furnished by the Freir Croft in Haddington, which reverted to the heirs of the donor because the conditions of its tenure—the prayers and suffrages of the friars—could no longer be fulfilled. *Infra*, II. p. 68.

[3] *e.g.* Dundee, *infra*, p. 227.

[4] *e.g.* Dundee, 1573, *infra*, p. 236.

[5] *e.g.* the friaries at Lanark and Kirkcudbright, *infra*, pp. 245, 255.

slaughterhouse and other public buildings by the Town Council from the same gratuitous source.[1] In vain the Privy Council issued rescissory acts and fulminated extravagantly expressed orders against this venality. Blench charters of friary lands and rents nevertheless continued to be granted to the mendicant favourites of the new régime[2] from which the constructive enthusiasm that had marked the advent of the Mendicant Friars, and in particular that of the Observatines, was strangely absent. Thus, the State Church of Scotland entered upon a new phase of its activity, shorn of its purely voluntary clergy and of the wealth that had contributed so largely to its undoing. Its religion was based on simpler, if more severe lines. Like the parochial-mendicant system, it dominated the national conscience for three centuries, until, in the Scottish Disruption, individualism again reasserted itself, and, within the same circumscribed limits of dogma, the parishioner finally vindicated his right to select the ministrations of the pastor of his choice.

During the active period of the Reformation, Franciscan history throws considerable light upon the political tactics of John Knox and his associates, if not also upon the psychology of the nation. The severest attack was directed against the stoutest bulwark of the Church while the popular vision was partially obscured by the fetish of national independence. Contemporary record clearly indicates that the Observatines represented the most healthy, the most disinterested, and, it may be affirmed, the most popular phase of ecclesiastical activity. In later years, the official chronicler of the Reformation belittled the severity of this attack by focusing attention upon its accidental character. The "poor people" were made responsible for the actual destruction of the friaries. Nevertheless, we cannot ignore the strange coincidence between the movements of their leaders and the sack of the principal Observatine houses. How naïve is the narrative of the pillage at Perth. The sermon was vehement against idolatry. The interruption of the Mass by the "young boy" was chastised in a manner wholly consonant

[1] In particular, Edinburgh, Lanark and Dundee.

[2] *e.g.* Kirkcudbright, Lanark, Aberdeen and Aberdour.

with the period. Thereupon, in his anger, this youthful demonstrator gave expression to the pent-up feelings of "certane godly men" standing beside him, "when he hyitt the tabernacle and brack doun ane ymage," with a stone he had presumably picked up in church. The innocent attendance of those godly men at this Mass is unaccounted for; and, ere the chronicler indulges in his only attack upon Franciscan wealth,[1] we learn that the eight friars "had within thame verray strong gardis keapt for thare defence." "Yit war thare gates incontinent burst upe," not by the gentlemen but by the "raschall multitude" that began to seek some spoil.[2] A month later, Knox glories in the stimulating influence of the sermon which he delivered in St. Andrews, despite the pacific protests of the Lords. He did "entreat of the ejectioun of the byaris and the sellaris furth of the Temple of Jerusalem," and so paralleled the corruption of Christ's days to that which they saw in "the Papistrie," that "alsweill the magistratis, the Provest and Bailies as the communalitie for the most parte did agree to remove all monuments of idolatrie, which also thay did with expeditioun."[3] As a matter of history, the Earl of Argyll and Lord James expressly brought Knox with them and summoned others to St. Andrews "for Reformation to be maid thair."[4] The delivery of his first sermon was delayed for a week until Sunday, 11th June; and, in place of the ready response attributed to the magistrates and burghers, harangues and sermons occupied four days before the townsmen set their hands to the task[5]—"and so, that Sabboth, and three days after, I did occupie the publict place in the middest of the Doctors, who to this day are dumbe."[6] At Stirling, the poor were again singled out as the culprits. The arrival of the Earl of Argyll and Lord James bent on military operations was just anticipated by this "rascheall multitude" that "put handis in the thevis, I should say,

[1] *Supra*, pp. 132–33. [2] *History of the Reformation*, I. 321–22.
[3] *Ibid.* I. 349. [4] *Ibid.* I. 347.
[5] *Vide* St. Andrews, *infra*, p. 296. The state of the Observatine Friary was described on 21st September 1559 as "the desolated ground and overthrown buildings of the Convent of Friars Minor." *MS. Inst. of Sasine*, *infra*, II. p. 202.
[6] Knox to Anna Lock, 23rd June 1559.

frearis places and utterlie distroyed thame."[1] George Buchanan's account of this incident is marked by greater candour.[2] The two Lords figure as the destroyers of the friary and not as mere witnesses of the rabble's handiwork; while we learn from independent sources that the Earl of Argyll and Alexander Erskine appropriated the Franciscan and Dominican Friaries as their respective perquisites.[3] At Edinburgh, before the "sudden coming" of Knox and the Lords from Stirling on 29th June, Provost Seton abandoned the defence of the Black and Grey Friaries—for which purpose he "did not onelie lye himself in the one every nicht, bot also constrained the most honest of the town to wache those monstouris to thair great greaf and truble"[4]—and "left the spoile to the poore who had maid havock of all such things as was movable in those placis before our coming and had left nothing bot bare wallis, yea, nocht so muche as door or windlock; wharthrow we war the less trubilled in putting ordour to such places."[5] In point of fact, the friaries were destroyed on 28th June by the Earls of Argyll and Glencairn, Lord James and Lord Ruthven;[6] but the controversy concerning this date cannot obscure the rôle of these Lords in the sack of the friaries, as the Diurnal is confirmed by Buchanan.[7] The Friary at Glasgow was probably destroyed in the autumn, when the Duke of Chatelherault and the Earls of Arran and Argyll led the attack upon the religious houses of the town.[8] The narrative of the work of destruction at Ayr is no longer extant. It was in a ruinous condition in 1561, and the circumstances surrounding its demolition were doubtless analogous to those described in the letter of the Abbot of Crossraguel to the Archbishop of Glasgow on

[1] *History of the Reformation*, I. 362.

[2] *History*, XVI. 37. Of this work Dempster says, "*Georgius Buchananus licet damnatae memoriae diligens nostrarum rerum in primis XII. libris investigator.*"

[3] *MS. Rental of Chaplainries*, *infra*, p. 376, II. p. 261.

[4] The magistrates undertook the protection of the religious houses within their jurisdiction, in compliance with a mandate addressed to them by the Queen Dowager immediately after the "greit mysreull" at Perth. *Burgh Records*, 14th May 1559.

[5] *History of the Reformation*, I. 362–63.

[6] *Diurnal of Occurrents.*

[7] *History*, XVI. 37.

[8] Bishop Leslie, II. 428, Ed. Scott. Text Soc.

7th April 1559.[1] The Friary in Aberdeen all but shared the fate of the preceding six. Remote from the centres of civil strife, the burghers tolerated the celebration of Roman worship until the closing days of the year. In an impassive attitude born of their habitual disregard for the future, the Observatines paid no heed to the storm-clouds slowly advancing from the south; while their Carmelite and Dominican brethren anticipated forcible dispossession of their homes by granting assignations and leases of their land, and removing their writs and charters to a place of safety.[2] Reformation was suddenly brought to the town by the militants of Angus and the Mearns on 29th December. The Observatines at once surrendered their friary to the magistrates, under the condition that it should be returned to them if the Queen reinstated the other brotherhoods. Thereafter the burghers defended it in their own interests against the invaders, although they had acquiesced in the sack of the other two friaries. Alone among the Observatine houses, the unimportant Friaries at Elgin and Jedburgh were peaceably and informally surrendered to the local authorities. The Observatine "nests" were therefore destroyed root and branch. The "rooks" flew away. But the suppression of fact effected in the *History of the Reformation*, by transferring the responsibility for this pillage to the masses, has given rise to an erroneous belief in a national spontaneity which had no actual existence.

In the near future, the vacant friaries were appropriated by the magistrates for such public uses as parish churches,[3] burial grounds,[4] or the conversion of the habitable buildings into a town market and hospital for the sick and infirm poor.[5] The title of the magistrates in Aberdeen and St. Andrews were the Instruments of Resignation granted by the friars immediately before their departure; and elsewhere their

[1] Keith, *Affairs of Church and State*, App. III. 393. This letter described the Abbot's projected disputation with John Willok, its failure because four or five hundred men supported Willok in the parish church, and the division of sympathies in the countryside under the leadership of the Earls of Glencairn and Eglinton.

[2] *Records of Marischal College*, I. pp. 94, 108; *Charters of St. Nicholas*, p. 297 (New Spalding Club). Cf. *Dominicans of Ayr; MS. Rental of Chaplainries*, Lease of nineteen years.

[3] Aberdeen and Ayr.

[4] Edinburgh and Perth.

[5] Aberdeen.

assumption of the sites was legalised by the Privy Council Order of 15th February 1561–62,[1] subsequently confirmed by the several Crown Charters of the ecclesiastical properties granted by Queen Mary and the Regency for the sustentation of the ministry, the schoolmaster and the poor. The management of these Hospitals, however, occasionally displeased the Privy Council; and, as late as 1574, the magistrates of Aberdeen were fined 1000 merks for their remissness, with the further threat of eviction from the Grey Friary unless its yards were at once leased by auction at a satisfactory rent for the sustenance of the town's poor and sick.[2]

Turning to the fate of the Conventual Friaries, the termination of Franciscanism in Scotland may be observed in a totally different aspect. With the doubtful exception of Dundee, none of them were destroyed or even attacked; and the situation of the remaining six, in the smaller towns unvisited by the Lords of the Congregation, offers a significant parallel to the immunity enjoyed by the Observatine Friaries in Elgin and Jedburgh. There was no definite expression of the popular will. Confiscation was undreamt of except by extremists; and, in the summer of 1559, few could have anticipated with confidence the brilliant temerity of William Cecil in striking at Scotland to the danger of the recent treaty of Cateau-Cambrésis. Men were prepared for a crisis in Church and State, likely to terminate in a constitutional victory against French aggression, as well as in a radical reformation of the evils that had brought the Church into disrepute.[3] Consequently, in their future interests, the Conventuals adopted the plan of granting conveyances of their heritable property in favour of provisional or absolute vassals, always under the expressed or implied condition that these rights should be renounced in the event of the friars being permitted to live in the habit and under the Rule as they had heretofore done.[4] Even after the Reformation

[1] *Reg. P. C.*, I. 202. It refers to the undemolished Friaries at Aberdeen, Elgin and Glasgow as being suitable for town hospitals.

[2] *Ibid.* II. 391–92; *Aberdeen Council Register*, *infra*, p. 327.

[3] *Cal. Papal Negotiations* (Scott. Hist. Soc.).

[4] *Haddington*, *infra*, p. 187.

and the detention of Queen Mary in England, this contingency was provided for by the surviving friars of Kirkcudbright, when they qualified the conveyance by the condition that their old church should be restored to them "if reformation shall happen to come to the Kirk and Religion."[1] In this manner, the friars of Dumfries, Dundee, Lanark, Inverkeithing and Haddington divested themselves of their lands, other than the churches and churchyards, in favour of convenient friends or the burgh magistrates under a series of writs granted between the years 1555 and 1560.[2] The extreme solidarity of the Franciscans, as an Order, is vividly illustrated in these deeds. The friary property belonged to no one Chapter in particular. Each had a direct interest in it, and hence the signatures of the several Wardens, as members of the Provincial Chapter, were appended to the Feu Charter that was to constitute the particular Chapter superior of the lands disponed in feu. The common and continuing interest maintained by the Order in its property after 24th August 1560, is similarly illustrated in the Feu Charter of the friary and burgh fermes of Roxburgh, granted in favour of Ker of Cesfurd by the five Wardens resident in Scotland in 1564, Acts of Parliament and Orders of the Privy Council anent the absolute alienation of Church lands notwithstanding.[3] In every case, the validity of these conveyances in favour of the friary nominee was ultimately recognised, often after litigation or an appeal to Parliament arising out of the tergiversations of the Privy Council and the plethora of competing rights created by the Crown. Distinct from the friary acres and endowments, the churches and graveyards, as *res nullius*, were generally taken possession of by the burghs;[4] and the costly delay in the transference of the friary church at

[1] *Infra*, p. 255. In his conveyance of the church and graveyard, Provost MacLellane of Bombie did not grant absolute warrandice; he merely undertook to return the purchase price in the event of the subjects reverting to the Franciscans.

[2] The custom was initiated by the friars of Dumfries, and the latest pre-Reformation conveyance of which any trace has been discovered is that granted by Mark Fluccar, Warden of Inverkeithing, on 3rd August 1560; *infra*, II. p. 161, and *Histories of the Friaries*.

[3] *Infra*, p. 151.

[4] Under the possible exceptions of Lanark and Inverkeithing.

Kirkcudbright (1570), in spite of the request for its immediate use as the parish church formulated by the Church Convention in 1564,[1] is a fair illustration of the prevalent indifference towards the reorganisation of the Church.[2]

Two questions of grave importance emerged with the establishment of the new faith—the absolute and beneficial ownership of church lands, and the provision to be made for the support of both the old and the new clergy. The political situation gave rise to uncertainty of land tenure, and the church vassal or tacksman had good reason to dread the claim advanced by the Protestant clergy for the transference of the Church patrimony.[3] In December 1561, the Privy Council transformed this pretension into the dream of an idealist, by restricting immediate confiscation to the Thirds of Benefices, and forbidding further molestation of occupiers under Feu Charters granted by the Churchmen prior to 6th March 1558–59.[4] The validity of these conveyances was also affirmed until Whitsunday 1563; and they were not subsequently invalidated, except by a provision contained in an Act of the same year, providing that such feus were of no avail against a "kyndlie and lauchful possessor, tenant and occupier."[5] Further feus or long leases of church lands beyond a term of three years were forbidden; but, among the Franciscans, we find the five Wardens ignoring this statute in their Charter to Ker of Cesfurd (1564), while Warden Home of Dumfries complied with its provisions in his liferent assignations of the friary rents for recurring periods of three years.[6] Finally, in 1571, the Crown assumed the superiority of friary and nunnery lands.[7]

The motive of this legislation was a generous consideration for the rights of the Roman clergy and their vassals, who were infeft under titles that admitted of no contradiction either in civil law before the abolition of the Mass, or in the canon law in those cases where papal confirmation of

[1] Keith, *Register, Affairs of Church and State*, III. 95.

[2] The various destinations of the Conventual endowments do not admit of generalisation. *Vide Histories of the Friaries.*

[3] Keith, *Register, Affairs of Church and State*, p. 31; *Reg. P. C., passim.*

[4] *Reg. P. C.*, I. 192.

[5] *Acts of Parliament* (Thomson), II. 540.

[6] *Infra*, II. pp. 117–121.

[7] *Acts of Parliament*, III. 59.

the grant had been obtained.[1] The theory on which it was based was that of the ultimate right of the Crown in the lands, endowments and buildings, *jure accessionis*, when the remaining two-thirds of the benefices were disburdened of the liferent and possession sanctioned in 1561. Hence, from and after 1564, Franciscan vassals secured Crown confirmation of their rights either by registering the title granted by the friary Chapter in the "Abbreviates of Feu Charters of Church Lands," at the cost of certain compositions exacted by the Lord Treasurer in Exchequer,[2] or by procuring a special Crown Charter of Confirmation. During the legal chaos—which extended beyond the majority of James VI., and arose from the recognition accorded to the friary charters, the Privy Council Order of 22nd December 1561, the scandalous multiplication of Crown cessionaries, and the claims of the ministry—the unfortunate occupier of Franciscan lands might, however, find himself confronted by two or more superiors each demanding full payment of his feu-duty. In one set of circumstances, the Crown Charters of the friary lands and rents granted to the burghs did not always exempt those rights already confirmed by the Crown. The vassal had therefore to contend with the magistrates, who instituted a strict inquisition into the old rentals of the friary, and with the nominee of the friary who had registered his title in the Abbreviates. A typical example is here furnished by Dundee, where the authorities evaded recognition of the Earl of Crawford's rights under the friary charter until 1594.[3] In another case, the vassal's position was less enviable, in as much as he could not shelter himself behind the plea of compulsory payment to a public authority. The gratuitous

[1] This was unnecessary for Franciscan vassals, as the Conventuals were empowered to alienate their lands, "for the evident utility of their houses." *Cum saepe numero*, 27th November 1519.

[2] Four volumes of this important record have been preserved:—two for the years 1564–69 in the General Register House, Edinburgh: one for the years 1576–86 in the possession of the late Lord Hopetoun, and the fourth in the British Museum.

[3] The decision of Parliament compelled them either to abandon possession or to compensate the Earl. He accepted £1200 Scots for the assignation of his past and future rights; but the Crown, under the Act of 1571, compelled him to pay £85, representing seven and a half yearly payments of the feu-duty of 17 merks stipulated for in the friary charter to his ancestor. *Exch. Rolls*, XXII. 566.

Crown cessionary, so vigorously attacked by the Church Convention, also competed with the friary nominee, as well as with the parish minister who claimed that the friary was thirled to his church in respect of the stipend. In this way each party poinded the luckless bonnet-maker of Lanark,[1] and the solution of the problem would have severely taxed the ingenuity of the Lords of Session, had the minister not withdrawn his claim while the other two serious competitors arrived at a mutual understanding.

In considering the provision made for the Mendicants who "recanted"[2] at, or before, the return of Queen Mary from France, three radical distinctions must be observed between them and the regular and secular clergy. The Mendicants possessed no parsonage or vicarage tithes in any form; they owned little land;[3] and the revenue derived from ground annuals did not suffice for their support.[4] In these circumstances, the scheme of provision decided upon for the hierarchy and parish clergy, on the basis of two-thirds of their old benefices, was wholly inadequate as a pension fund for the Friars and Sisters. Thereupon, the friary rents and revenues were assumed by the Collector of Thirds in accordance with the Order of Privy Council which set aside this fund[5] "to sustene the ministeris throw the hale realme and support the Quenis Majestie to intertein and sett forward the common effeiris of the cuntrie." From this fund, each Mendicant who conformed to the new faith[6] received an annual pension of £16, occasionally increased by Crown precept in the case of Dominican Priors.[7] For the year 1561, sixty-eight pensions

[1] *Infra*, p. 244.

[2] *Vide* Recantation of the Dominican Provincial, John Grierson, at p. 16, *Kirk Session Register of St. Andrews*, Scott. Hist. Soc. (Dr. Hay Fleming).

[3] The Grey Friary lands in Dundee were leased by the Magistrates for £31, 15s. 4d. annually. Those of Dumfries produced about £30, and the burghal lands of the Black Friary in Edinburgh, £38, 5s. 8d. *MS. Accounts, Collector-General.*

[4] Summary, *supra*, p. 140.

[5] *Reg. P. C.*, I. 193, 202.

[6] Those who would not "recant by any persuasion" were not paid. *Vide* Acts of Edinburgh Town Council compelling formal abjuration of the Roman faith by Churchmen resorting to the town. *Burgh Records.*

[7] The pension allowed to simple monks and nuns of the Regular Orders was £20, and it frequently went unpaid; but if the revenues were intromitted with by the Collector this amount was reduced to £16, *e.g.* the eleven monks of Melrose

were so paid to Grey, Black, and White Friars, in 1562 the number rose to eighty-two, and in the following year £1018 was entered for pensions to Friars, and £754, 3s. 11d. to Sisters and Nuns.[1] From an analysis, nine Conventual Franciscans[2] and three Observatines[3] can be identified as recipients of this dole for a varying number of years. Several other Conventuals must, however, be accepted as recipients on account of the indiscriminate entries by the Collector relating to Lanark, Kirkcudbright and Dumfries; while a few Observatines were doubtless included in the similar entries pertaining to the Black and Grey Friars of Edinburgh, Perth and Elgin.[4] There is also extraneous evidence to prove that three other Conventual friars remained in Scotland in enjoyment of pensions of varying value under special circumstances.[5] The collection of the revenues and the payment of the pensions followed no well-defined rule in the case of the Franciscans. The two Friars of Roxburgh received their allowance, and, at the same time, granted a remunerative feu

who each received that sum from the Collector-General for the year 1563—"Alexander Bannatyne, Johnne Hoggart, Johnne Watsoun, eldare, Bernarde Bowstoun, David Hoppringile, Thomas Mayne, James Ramsay, James Arbuthnett, George Weir and Johnne Foirhouse and Thomas Halywell as their acquittances beris" (*MS. Accounts, sub anno*). Of these, Johnne Watsoun was the last survivor, as he adds to his signature to a Tack, dated in December 1594, the almost pathetic words, "only convent." Calendar of Charters, Mr. M. Livingstone: *Pro. Antiq. Soc. Scot.*, XLI. 344.

[1] *MS. Accounts, Collector-General, sub annis:* supplemented by Keith's *Summation*, III. 385.

[2] Provincial Ferguson and Warden Brown, Dundee; Warden Charles Home, Friars George Law and Herbert Stewart, Dumfries; Warden Henry Cant and Friar John Purrow, Roxburgh; Warden John Cant, Kirkcudbright; Friar Thomas Lawtay, Lanark.

[3] Alexander Harvey, William Lamb and John Gaddy or Geddy, Aberdeen.

[4] *Edinburgh;* eight pensions were paid to Black and Grey Friars, and of these the only four who can now be identified are Black Friars. *Perth;* eleven pensions were paid to White and Black Friars in the first account; fifteen were paid to White, Black and Grey Friars in the second account. No Grey Friars appear as pensioners when this allowance was paid from the Hospital funds. *Elgin;* in the first account the pensions were paid to the Friars of Elgin and Inverness; in the second two additional names appear, and the designation is changed to Black and Grey Friars. This tardy accession of Grey Friars is not inconsistent with the statement of Father Hay (p. 158), and it is not improbable that a few returned to Scotland from the Netherlands.

[5] Warden Auchinleck and Friar Allan of Haddington; Warden Fluccar of Inverkeithing.

of their land which was not paid to the Collector. The Magistrates of Dundee at once seized the lands and revenues of the friaries within their jurisdiction[1] and disclosed an insignificant proportion to the Collector, who paid two pensions to Franciscans as against £25 which he received from the Grey Friary.[2] Haddington was also an exceptional case, by reason of the legal acumen of its last Warden, John Auchinleck, who maintained possession of his old benefice until 1572, when, in receipt of £22 annually as liferent superior of his old benefice in lieu of his former "sober yeirlie pension" of £20, he surrendered the writs and evidents of the friary to the Magistrates, before entering the service of the new Church as salaried reader at Athelstaneford Kirk. In the case of Lanark, Kirkcudbright and Dumfries, the evident intention of the legislature was followed in the assumption of the whole revenues and correlative payment of the pensions out of the entire fund of Thirds. The Thirds collected in 1562–63 amounted to £72,491, 13s. 3½d. Scots, out of which the Protestant clergy received £24,231, 17s. 7d. and the Mendicant pensioners £1772, 3s. 11d.[3] The surplus was expended in remissions and grants bestowed on the "gredie askeris" to the indignation of the Church party. In 1567, however, the latter secured a recognition—more apparent than real—of their claims, when Parliament directed that the whole Thirds should be paid to the Ministers "ay and quhill the Kirk cum to full possession of thair proper patrimonie quhilk is the tendis."[4] This Act coincided with the series of Crown Charters of ecclesiastical properties that were granted to the different burghs; and a change in the incidence of the Mendicant pensions was thus effected, unless the friar was the fortunate possessor of a special precept from the Sovereign, Regent, Lord Clerk Register, Lord Justice Clerk, or the "Compter."[5] In effect, the Order of

[1] *MS. Accounts, Collector-General*, 1561: "Thair thesauraris intromettit and applyit in thair commoun aufairis before the Comptaris entrie to his office."

[2] This sum was intended to represent one-third.

[3] Printed Account, Keith, App. III. 384–85.

[4] *Acts of Parliament* (Thomson), III. 37.

[5] *e.g.* Warden Auchinleck of Haddington among the Franciscans, paralleled among the Dominicans by the precepts granted to their last Provincial and the

1561 was revoked; and the State renounced its responsibility for payment or for any deficit, in the event of the friary revenues proving insufficient to meet the pensions hitherto paid to the surviving and conforming friars.[1] The rents and revenues were vested in the Crown beneficiaries, and they, in turn, were compelled to recognise the pensions as liferent burdens upon the funds which they had acquired.[2] But in cases where the Crown Charter to the burgh was suspensive, the revenues reverted to the friars, subject to the limit of £16 as the annual share of each friar in a fund which was intended to revert to the Crown on the death of the last survivor.[3] Warden Home of Dumfries accordingly appeared in the account of 1567 for the first time as intromitter, with the official return of the friary revenues.[4] In 1572, £35, 3s. 8d. had accumulated in his hands as the result of his unscrupulous behaviour towards his brother friar, George Law. The details of his chicanery, his fraudulent partnership with Provost MacBrair—under the title of "allegeit fewarris of the annewallis and fischeings" of Dumfries—and his collusive assignations of the friary revenues to the magistrates and his partner with a view to defrauding George Law, are fully narrated in the history of the friary. For the present, and the establishment of the personal responsibility of the Wardens for these pensions, on the analogy of the Abbots or Commendators of the regular monasteries,[5] it is sufficient to refer to the success of Friar Law's suit before the Lords of Session in 1573, when he obtained a Declarator of his right to arrears and future payments of his pension from Warden Home.

Prior of Stirling, whose pensions were increased to £25, 6s. 8d. and £26 respectively. *Accounts*, 1561.

[1] *e.g.* Warden Cant of Kirkcudbright received only £7, 15s., the value of the ground annuals formerly in the possession of the friary—supplemented by his wages as Kirkmaster paid by the magistrates, and a chalder of victual from the Lordship of Galloway.

[2] *e.g.* Warden Brown of Dundee now received £16 annually from the Hospital fund, and the Dominicans of Edinburgh, Perth and St. Andrews received their pensions in whole or part from the same source.

[3] *e.g.* Roxburgh, Inverkeithing, Lanark, and perhaps Dumfries.

[4] £33, 11s. 10d., but they actually produced £43, 12s. 10d.

[5] Innumerable cases of this form of chicanery also occurred in the payment of the pensions of the regular monks, *e.g. Reg. P. C.*, 18th January 1562–63.

The payment of the Observatine pensions was much less complex. There were no ground annuals to be assumed by them or by the Collector. There were no subsequent conveyances granted by any member of the Order. The magistrates appropriated the sites of the friaries, and paid the allowances,[1] so that the passing of the Act of 24th August 1560 virtually obliterated every trace of the Order from Scottish record. It may be accepted as the severest test of the sincerity of the Observatines as Churchmen. The verdict was all but unequivocal, and had been foreshadowed in the attitude of the respective divisions of the Order towards the country and the Rule of St. Francis. The Conventuals, as their history abundantly testifies, were men who identified themselves with the people among whom they laboured. Their corporate existence in the country extended over three centuries, and, from their special views of life, they were decidedly the more practical of the two families of Franciscan friars. Though fewer in number than their rivals, their influence in the country is manifest in the letters which James IV. and James V. addressed to the Holy See, beseeching his Holiness to protect the Observatines against their encroachments. At the last, in the great crisis of their history, they proved themselves more Scotsmen than Churchmen at heart, and the record evidence indicates that their property and the future were their immediate care. The ratio of apostasy was high.[2] It was not less than one

[1] In Aberdeen, they ordered the Treasurer to instal four honest men in the friary for its protection, and, consequently, the Observatines, William Lamb and John Geddy, were entered in the accounts of 1561 and 1562 as the recipients of £10 each "for the keping of the Gray Freiris place of Abirdene and the yardis thairof at command of the Quenis Majesties precept direct thairupoun for the year compted." Friar Harvey received the full allowance of £16 for 1561 and 1562, and in 1563 the custodiers of the place were put upon an equal footing with him; but they received no pension in 1567, although Friar Geddy lived until 1575, when his death is recorded in the Aberdeen Death Register.

[2] That is, in comparison with the Observatines. At least thirty-five Dominicans abjured Roman Catholicism, including the Provincial John Grierson and Bernard Stewart, William Henderson, Andrew Abercromby, David Cameron, Francis Wrycht and James Dodds, the Priors of Edinburgh, Stirling, Aberdeen, Perth, Elgin or Inverness and Wigton. John Law, Sub-Prior of Glasgow, also recanted and received the usual pension; but his Prior, Andrew Leich, does not appear as a pensioner, although he remained in Scotland and granted a "pretendit" charter

half;[1] but, in the absence of a chronicler to disclose the locality of their exile, we are unable to follow the subsequent history of those who refused to content themselves with mental reservations in the autumn of 1560, and passed out of the history of their country when they entered the friaries of France or the Netherlands.[2]

On the other hand, the relationship of the Observatines with the people and the country may be described as impersonal. They were bound by fewer ties of affection or sentiment to the soil. Idealists, whose devotion to duty rested, perhaps, more on the emotions than on profound sympathy with the people in their struggles, they excelled in devotion to their Church. It was their fatherland in every sense of the word, and this fact will be frequently observed in the naïve outbursts of hero-worship indulged in by their chronicler, Father John Hay. His precious lines lead us to a vague appreciation of the quaint conceits of friary life, of the keen subjective pleasure experienced by the friar in his featureless existence, and his total disregard for the claims of nationality. The virtues or vices of the reformers are of no concern to this historian. They are sadly dismissed as "rebellious heretics" who overthrew Religion;[3] and the Scottish Reformation is passed over as a mere incident in Observatine history leading up to their departure to the Netherlands. Thus, when dispossessed of all their friaries at the close of 1559, they preferred exile to the repudiation of their faith. The seceders from the corporate decision are stated to have been two, or three at most[4]—"Observatine

to part of the friary lands on 13th November 1560. *MS. Accounts, Collector-General and Sub-Collectors*, 1561–68.

[1] There were never more than fifty Conventual friars in Scotland, and in 1559–60 their number was probably as low as thirty. Sixteen or seventeen recanted, including their Provincial and four out of the seven Wardens. Three, if not four, Wardens accepted office in the new Church.

[2] During the progress of his mission, which terminated in the Treaty of Edinburgh, Bishop Montluc indicates the departure of Scottish churchmen to France without throwing any light upon the Order to which they belonged; *Négociations sous François II.*, Doc. Ined.

[3] *i.e.* the Franciscan Religion or profession.

[4] *Ob. Chron.* *Vide* numbers on page 154, where three are identified. The slight discrepancy may arise from Hay's ignorance of the return of some of the exiles to Scotland.

fathers, preachers and wardens, who remained in the castles of the nobility, and that, too, in secular dress, in the hope of preaching the Word and of hearing confessions. But through daily intercourse with the heretics, and lured by the blandishments of the world, they at length joined the rebellious heretics." The chronicler's charity towards his apostate brethren will not pass unobserved. The rest, like faithful Franciscan "pilgrims and strangers," found temporary shelter among their numerous friends and adherents during the spring and summer of 1560, on occasion returning to the world of practical affairs to comply with the formalities of the civil law in the transference of inheritances.[1] In the summer, under the leadership of their last Provincial Minister, Father John Patrick,[2] eighty Observatines sailed from Scotland to the Netherlands, where they received a kindly welcome in the Lower German Province from its Provincial, Father Francis Immomelanus.[3] For the Scottish Observatines, that country possessed a special attraction; it was the birthplace of their Observance; from it they were habitually visited on behalf of the ultramontane Vicar General, and thither they now returned to shelter from the stormy blast of the Reformation. By the year 1563, they were settled in the various convents of the Province, one of their Wardens, Robert Richard, having been received into the Friary of Louvain on 1st September 1560; while Thomas Motto was appointed to teach in the friaries of the Lower German Province. The tide of Observatine emigration may, therefore, have commenced shortly after the Treaty of Edinburgh. A second exile, however, awaited them when the Dutch reformers

[1] *e.g.* Friar Baxter, *infra*, pp. 348–49.

[2] "Having attained his jubilee in the Order and the priesthood, along with eighty priestly fathers, he won the honour of sacred exile from Scotland for the sake of the confession of the name of Jesus Christ and the Religion." *Ob. Chron.*

[3] Hay's statement of this number may be accepted as approximately correct, although the number of friars which he allocates among the friaries is undoubtedly exaggerated. In the friary at Perth, which was of secondary rank, there were only eight friars in 1559, and every record source now available confirms the Observatine emigration. Friar Gonzaga, Observatine Minister General and author of the *Orbis Seraphicae* (1587), accepted those figures in his narrative of the Scots Province; and the subsequent increase of the number to 140 is plainly an interpolation by another friar.

"overthrew the Province." Warden Motto entered France in 1579, accompanied by the majority of the survivors, and the rest transferred their services to Cologne. Among the latter was Father Hay, who attained the honourable position of Minister of the Province of Cologne, and our knowledge of the doings of the Scots Observatines terminates with the completion of his history of their Province.

St. Francis.
From "The Crucifixion" of Fra Angelico in the Convent of St. Mark, Florence.

CHAPTER VIII

THE CONVENTUAL FRIARIES

1. Roxburgh—2. Haddington—3. Dumfries—4. Dundee—5. Lanark—6. Inverkeithing—7. Kirkcudbright.

Roxburgh[1]

The importance and prosperity of the royal burgh of Old Roxburgh belong to another age. In the thirteenth century, it was represented in the famous burgher parliament; its schools were known throughout the land, and its castle, a favourite residence of our early kings, was the fortress that dominated the fortunes of the eastern border. Situated on the small peninsula formed by the confluence of the rivers Tweed and Teviot, the position was one of great strength from a military point of view, and it was on the maintenance of the castle that the very existence of the burgh depended. In the middle of the sixteenth century, Old Roxburgh had ceased to be a place name; and the community of Grey Friars, who settled in this centre of commercial and ecclesiastical activity about 1232–34, were described in 1545 as the "Freers nere Kelso." To-day not a stone of their friary remains; while the ground covered by the ancient royal burgh to the east of the castle is now utilised as a golf course by the inhabitants of Kelso. After the Reformation, the friary was converted into a mansion-house by Walter Ker of Cesfurd, and at a later period into a farmhouse. Two small cottages still known as "The Friars"[2] mark the site, while a

[1] The history of the Friary at Berwick between the years 1231 and 1333, when it was nominally a Scottish friary, has been incorporated into the General History, Chapter I.

[2] From a letter written by the Earl of Roxburgh, descendant of the Kers of Cesfurd, on 9th October 1606, we learn that the name "Freiris" still clung to the

few coffins ornamented by rough iron plates and a skeleton and key found under the door of their old Church of St. Peter constitute the sole relics[1] of the friars who carried the teaching of their great master through the vale of the Tweed from Berwick. Their presence was unwelcome to the monks of Kelso; but by the year 1235 their settlement was completed on the south-easterly point of the peninsula beside the old ford of Teviot, and only the cemetery awaited consecration at the hands of the suffragan of the diocese. Bishop William of Glasgow, it will be remembered, recognised the limited rights of the friars, and thus euphemistically recorded the termination of the dispute concerning their rights of burial:

> "To all the faithful in Christ, greeting: Be it known to your whole community that, in the year of Grace 1235, on the morrow of the Invention of the Holy Cross (4th May), there compeared before us at Roxburgh Master Herbert, Abbot of Kelso, and Friar Martin, Custos of the Friars Minor in Scotland, and they came to an agreement concerning the consecration of a cemetery attached to the Church of St. Peter: We, being satisfied that the Friars Minor are privileged to bury their whilom brethren, and none others, wherever they possessed certain houses, were induced to provide for the permanent peace and security of both parties in this manner, that the said cemetery be consecrated at the aforesaid place—and we consecrated it on the same day—under the provision that the rights of the monks of Kelso over their churches should suffer no prejudice."[2]

The recorded history of this friary until the War of Independence may be briefly summarised as an active share in the repeated endeavours to secure the disjunction of the Scottish friaries from the parent custody of Newcastle.[3] John Balliol, we may believe, repelled his overlord's claims of superiority in an instrument delivered to Edward I. at

buildings of the friary after they had been converted into the mansion-house. On this occasion the Earl apologised to Sir Robert Ker of Ancrome and his brothers "for the unhappie accident of the slauchter of umquhill William Ker thair father committit be me." *Hist. MSS. Com. XIV. Report*, III. 32, 35.

[1] Found in the latter half of the eighteenth century by the occupant of the farmhouse which replaced the mansion-house built on the site of the friary; Mason's *Records of Kelso* (reprint, 1839).

[2] *Liber de Calchou*, II. 321, No. 418 (Bann Club); *infra*, II. p. 1.

[3] *Supra*, pp. 7–10.

Berwick on 4th April 1296 by Friar Adam Blunt, then Warden of Roxburgh,[1] and a month later Edward lodged in the friary on the eve of the surrender of the Castle.[2] In 1297, he sanctioned the continuance of the alms of John Balliol, amounting annually to six pounds twelve shillings, eighteen stones of wax and a pipe of wine;[3] and in July 1301, he again resided for three days within its walls. For this accommodation the Warden, Friar Robert de Rotheley, received the sum of five shillings from the King's eleemosinar.[4] During the interdict laid upon the country by Pope John XXII., the Warden was empowered under a mandate from the Curia to relax the sentence of excommunication in so far as it affected that doubtful Scot, Patrick, Earl of Dunbar, and to grant a dispensation for his marriage with Agnes, daughter of the Earl of Moray, to whom he was related in the fourth degree. It was subsequently discovered that the spouses were related in the third degree, and a second mandate was issued confirming the marriage and legitimising the children of the union.[5] In another papal mandate of the same date, the Warden was empowered to continue John Giffard, Knight, and Eufena de Marahon in the marriage which they had contracted in ignorance that the lady was related in the fourth degree to Isabella, with whom the knight had intermarried, and who had died before consummation of the marriage.[6]

From the Bruce, the friary received an annuity of twenty merks, and in 1332, after it had been despoiled of its books and other valuables at the instigation of the monks of Kelso,[7] the Exchequer was requested to make an allowance for 240 Eastland boards intended for the roof of the friary,[8] and for 535 others which the friars had given up for the hasty fortification of Berwick prior to the invasion of Edward III.

[1] Holinshed, *Chronicle*, III. 299a.
[2] Gough, *Itinerary of King Edward I.*, II. 280.
[3] *Hist. Doc. Scot.* (Stevenson), II. 246; *Rot. Scot.*, I. 38.
[4] Bain, *Cal.*, IV. 448.
[5] *Cal. Pap. Reg. Letters*, II. 201, 235, 15th September 1319.
[6] *Ibid.* pp. 201–2.
[7] *Supra*, pp. 26–28.
[8] *Exch. Rolls*, 22nd February 1332.

During the campaign which followed, the friary escaped destruction, presumably owing to the fact that Edward regarded the district as permanently annexed to England; and there is every probability that it was occupied by English Franciscans in accordance with the order of 10th August 1333.[1] In 1336–37 the community numbered four friars, and a warrant under the English Privy Seal, for the payment to them of £6, 16s. 8d. for the use of the ford for 205 days, reveals the fact that the friars had acquired the right of levying toll at the ford and ferry of the Teviot beside the friary, so as to produce a daily allowance of two pence for each friar.[2] Passing over the period of English occupation, during which a treaty with England concerning the wardenship of the borders was concluded in the friary,[3] we come to the untimely death of James II. at the siege of the Castle in 1460. His body was conveyed to the friary, where it received the last offices of the Church from the brethren, and from this date a mass was celebrated annually for his soul.[4] The demolition of the Castle followed as a precautionary measure on the part of its captors, and the once important burgh rapidly dwindled into a mere hamlet. It lost all title to its burghal rights which were transferred to the neighbouring royal burgh of Jedburgh; and the measure of its decay may be clearly appreciated in the Crown Charter of 5th October 1477, granted to the friars by James III.[5] Granted for the glory of God and Saint Peter, the patron saint of the friary, this deed conveyed to the brethren (in lieu of the annuity of twenty merks out of the burgh fermes granted by Bruce) "All particates, bounds and burgh fermes of the burgh of Roxburgh, together with the fishings and waters, and passages of waters, and old ferries of the said burgh now in our hands by just conquest from the hands of our enemies of England." The dwindling fermes did not produce twenty merks annually, and the

[1] *Supra*, pp. 33, 34.

[2] Bain, *Cal.*, III. 376.

[3] *Fœdera*, VI. 569–71, September 1367.

[4] *Exch. Rolls*, 5th August 1501. The endowment of four pounds from the lands of Castlemot, Orchard and Tounsteid of Roxburgh for this service on the King's obit day may, doubtless, be traced to the influence of his heroic widow, Mary of Gueldres.

[5] *MS. Reg. Mag. Sig.*, VIII. No. 28; *infra*, II. p. 3.

succeeding clause accordingly provided that the friars should remain in possession until they had been infefted by the Crown in another annuity of equal value; but the correlative obligation to account to the Exchequer for any surplus beyond twenty merks never came into operation, and in 1560 the sum of ten pounds was entered in the friary rental as the income derived from the burgh taxes.[1]

This dual and inconsistent rôle of tax-collectors and voluntary clergy soon brought the friars into conflict with their powerful neighbours the Kers of Cesfurd, who received a grant of the "Castle of Roxburgh with the Castlestead, messuages and pertinents" from James IV. in 1488.[2] Mark Ker, as tutor to his nephew, put a liberal interpretation upon this grant, and took possession of certain lands and maills comprised in the charter granted to the friars by James III. The aggressor was thereupon summoned to appear before the Lords of Council; and, at the second hearing on 11th December 1503, decree was given in favour of the friars, to the effect that "the Wardene and the convent of the freris of Roxburgh sall brouke and jouse all the akeris, bondis, burrow malis of the burgh of Roxburgh, togidder with the fishingis, wateris, passagis and auld ferys of the said burgh, efter the forme and tenour of the charter under the Gret Sele made thairupon to thaim and thair successouris."[3] The reign of James IV. is marked by a gift of forty shillings as the King's alms during a justice ayre at Jedburgh,[4] one of eighteen shillings on Christmas day 1496,[5] a grant of ten pounds for the repair of the friary paid to their Warden, Friar John Connell, and another of similar amount from the justice ayre, both in 1501.[6] The friary is next met with in the list of places burned and destroyed by the English during Hertford's raid in 1545,[7] and in 1547 it was still in ruins. At this time, Bulmer, the English captain, found work for his troop in erecting a guard-house at the gate of the friary, and in roofing over three of its vaults to serve as

[1] *MS. Reg. Mag. Sig.*, XXXII. No. 13; *infra*, II. p. 5.
[2] *Reg. Mag. Sig.* (Print), II. No. 1765.
[3] *MS. Acta Dom. Concil.*, XV. ff. 95, 115.
[4] Pitcairn, *Criminal Trials*, I. 22.
[5] *Treasurer's Accounts.*
[6] *Exch. Rolls*, 5th August.
[7] Haines, *State Papers*, I. 53.

a stable for twenty horses.[1] It is probable that the friars resumed possession of their home during the decade preceding the Reformation; but their history prior to 1560 is wholly a matter of surmise. In that year, the burgh fermes provided them with an income of ten pounds,[2] and after the abolition of the Mass two of their number, Henry Cant, the last Warden, and John Purrok or Purrow, remained in Scotland in receipt of the mendicant pension of sixteen pounds each.[3] Finally, five of the surviving Conventual Wardens met at Edinburgh on 18th December 1564, and executed a charter in favour of Walter Ker of Cesfurd, who agreed to pay Warden Cant twenty merks and two shillings annually in respect of the acres, burgh fermes, and rights of fishing, ford and ferry, and four merks for the friary and its yards.[4] The Crown accepted this charter as a good infeftment after payment of the composition demanded,[5] but the defective condition of the later accounts prepared by the Collectors render it impossible to ascertain the recipients of the annual feu-duty. In the absence of any burghal authorities, it may have been equally shared among the surviving Wardens; and the Crown confirmation of William Ker's title and novodamus of the friary lands on 8th April 1588, in accordance with the Act of 1571, mark the limit of time to which Warden Cant may have survived.[6]

ROYAL BOUNTIES TO THE GREY FRIARS OF ROXBURGH

I. Exchequer Rolls

1332, February 22. The Accounters ask an allowance for 240 Eastland boards intended for the roof of the Friars Minor of Roxburgh, taken by a Letter from Sir Alexander de Seton, who is Warden for the reparation of the town of Berwick, and for 535 Eastland boards taken

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[1] Bain, *Cal.*, I. No. 98. Somerset had erected a fort on the site of the old castle, and the friary ruins were transformed into a military post to command the ford and prevent surprise.

[2] *MS. Charter*, *infra*, II. p. 5.

[3] *MS. Accounts*, *Collector-General*, *annis* 1561, 1562.

[4] *Charter MS. Reg. Mag. Sig.*, XXXII. No. 13; *infra*, II. p. 5. The ferry boats continued to ply until the erection of the present bridge over the Teviot in 1794.

[5] *Relative Abb. Feu Charter.*

[6] *Reg. Mag. Sig.* (Print), IV. No. 1021.

from the said Friars by Waren de Beverlay and Egidia de Mindrom, bailies, for repairing the Castle of Berwick, by precept of Earl Patrick, then Warden.

1501, August 5. Paid by William Douglas of Cavers to the Friars Minor at Roxburgh, celebrating mass for the soul of King James II., out of the fermes of the lands of Castelmot, Orchard and Tounsteid of Roxburgh, extending yearly to £4, for the years of this Account, £12.

1501, August 5. Also paid to the Friars Minor of Roxburgh for the repairing of their place, as the alms of the King, Friar John Connell, their Warden, acknowledging receipt, £10.

1501, Eod. die. Also paid to the said friars by the charity of the King from the justice ayre, £10.

II. Treasurer's Accounts

1496. Item, on Yule day, the 25th day of December, be the Kingis command, gevin to the Freris of Roxburgh, 18s.

1502. Item, the ferd day of November, to the Freris of Roxburgh, be the Kingis command, 14s.

OTHER SOURCES

1300. Fratribus Minoribus de Rokesburgh, pro putura sua trium dierum in adventu regis ibidem, per manus Fratris Roberti de Rotheley apud Kelshou XXIIIJ° die Julii, 5s. (Bain, *Cal.*, IV. 448).

1336–37. Et allocatur ei £6, 16s. 8d., quos soluit iiij^{or} Fratribus Minoribus commorantibus apud Rokesburghe, in partem solutionis vadiorum suorum, videlicet, cuilibet dictorum fratrum per diem duos denarios per tempus huius compoti, videlicet pro ccclxv dies, tam per breve regis, quam per breve de privato sigillo (*Ibid.* III. 376).

1495. Expenses of the justice ayre at Jedworthe—To the friars of Roxburgh by the charity of the King, 40s. (*Pitcairn*, I. 22).

The Cordelière and the Crowned A of Anne of Brittany.
Château de Blois.

CHAPTER VIII—(*continued*)

CONVENTUAL FRIARIES

Haddington

From Roxburgh the friars soon turned their footsteps northwards to the Lothians and, as early as 1242, we find them in possession of a regular friary in the royal burgh of Haddington.[1] Situated on the west bank of the river Tyne close to the parish church[2] founded by David I., the friary overlooked the mill pond formed by the weir immediately above the present Nungate Bridge. When first met with in our legal records, its southern boundary is described as the common highway—then "the Kunzey, utherwyse the gait that passis to the paroche kyrk,"[3] now Church Street—leading past the friary to the parish church,[4] or Lamp of Lothian, which Bower erroneously identified with the Franciscan church. John Major, although a native of Haddingtonshire, perpetuated this error in his account of the destruction of the friary by Edward III. in 1355: "The English King then, in his wrath, set fire to Haddington and along with the town burnt that most fair church of the Minorites which is called the Lamp of Lothian. Now I for my part do not think it well that the Minorites should possess churches of this sumptuous magnificence; and it may be that

[1] *Lanercost Chronicle*, pp. 49–50. Local writers date the foundation of the friary from the year 1258 without giving the slightest clue to the existence of the charter on which their statement is based.

[2] The present beautiful cruciform structure, the nave of which is still occupied as the parish church, dates from the latter half of the fourteenth century.

[3] *MS. Discharge*, Patrick Cokburn of Newbiggin to the Bailies of Haddington. Burgh Charter Chest.

[4] Charter of Confirmation, 26th October 1497: *Reg. Mag. Sig.* (Print), II. No. 2375.

for their sins, and the sins of the town itself, God willed that all should be given to the flames."[1] The friary was destroyed in this conflagration; but considering the architectural magnificence of the parish church, with its elaborately adorned square tower of 90 feet in height surmounting the transept,[2] the dwarf belfry of the friary could scarcely have suggested the appellation; and it is equally inconceivable that the parish church only became known as the Lamp of Lothian after that of the friary was pulled down in 1572–73.[3] From the numerous conveyances of the friary and its pertinents that were granted between the years 1555 and 1572, we learn that the northern and southern boundaries were the Freir Gowill—now Gowll Close—and the "Kunzey" already referred to. The Tyne marched the "eister yaird," while the western boundary was indefinitely expressed as land, partly waste and partly built upon, belonging to the burgh[4] and known in the sixteenth century as the "Rudis of the Freir Wall."[5] These roods, with an adjoining strip of ground on the south, were purchased by the town from

[1] Ed. Scott. Hist. Soc. (Constable), p. 297.

[2] Described as "one of the most graceful lanterns to be seen in stone or on paper": *Transactions, Edinburgh Architectural Association*, I. 27.

[3] *B. C. B., sub anno.* Bower's statement was written nearly a century after the destruction by Edward III., and, at a second interval of seventy years, John Major adopted and expanded his erroneous identification of the two churches. His Puritanical reflections upon the reasons for the conflagration are of no historical value. They are to be met with in other contexts throughout his work, and are apologised for in his dedication to James V. It is also to be noted that he left Scotland at the age of fifteen. The parish church, with its tower and openwork lantern, visible to all Lothian, corresponds in every detail to the descriptions of both Bower and Major. The front of the north transept was destroyed by the English guns during the siege of 1548. Had the friary church possessed a tower of similar dimensions, its destruction by fire alone would have been an impossibility; and it would have been in existence at the Reformation if not at the present day. But the dwarf belfry of Franciscan churches, as required by the Bulls of Erection, had nothing in common with the tower and lantern of Haddington parish church; and there is nothing in the surviving monuments of Franciscan architecture in this country to indicate that the friary churches were other than plain unpretentious buildings.

[4] *MS. Precept of Sasine*, 9th October 1559 and relative writs; *infra*, II. pp. 44–63.

[5] In 1561, the Roods occupied the land between the Freir Wall and the present line of Hardgate Street, "the freir wall eist and the causay west." *MS. Burgh Court Books*, 6th November 1561, 22nd October 1562 and 28th May 1563. This record is subsequently quoted by the abbreviated reference "*B. C. B.*" Excerpts, *infra*, II. pp. 79–96.

Patrick Cockburn of Newbiggin for thirty pounds Scots, and from his receipt we learn that the front gate of the friary opened in the west wall 10 feet from Church Street.[1] In the form of a rectangle, this plot of land may therefore be said to have been enclosed, north and south, by the Gowll Close and Church Street, and to have extended from the Mill Pool on the east to the tenements on the roods of the Freir Wall on the west.[2] The internal configuration of the land is not wholly conjectural. The church was oriented, with its great east window looking over the east yard to the river, and its nave was flanked by the altars of St. Francis, St. Duthac, St. John the Baptist and St. Clement,[3] if not also by a fifth in honour of the Blessed Virgin. Adjoining the church on the west was the friary cemetery, and the remaining ground stretching up to the western boundary, or Freir Wall, was occupied by the little croft, or west yard, leased by the friary Chapter to James Tweedy for nineteen years from Whitsunday 1558.[4] To the north of the church, and separated from it by the breadth of the cloister yard, were the conventual buildings as described in John Grey's feu-charter of 3 roods of the "freir kirk passand north and containing the chalmer hall and kitching."[5] In its irregular course the "freir stank" or open drain from the buildings first served as the west boundary of the east yard and then "boundis the eist freir yard to thair said commone at the north part thairof"—there being no wall on this part of the north side as late as 1575[6]—and finally entered the river at a point "foreanent" the burgh's common ground. The rest

[1] *MS. Discharge*, 19th May 1540. Burgh Charter Chest.

[2] *B. C. B.*, 6th November 1561.

[3] Douglas, *Peerage*, p. 521; MS. Charter to the Friars by Walter Bertram, Provost of Edinburgh, *infra*, II. p. 16; Indenture with Sir William of Halyburton, *infra*, II. p. 8. The altar of St. John the Baptist was erected on the north wall of the nave.

[4] *B. C. B.*, 22nd May 1572. Lease dated 23rd December 1557 was signed by Warden John Congilton, Friars John Auchinleck and Patrick Allan.

[5] *Ibid.* 13th November 1572; *MS. Protocol Books*, Thomas Stevin, 1565–74, 12th December 1572. The terms of John Douglas' perpetual license, granted 10th and 25th August 1556—"to byg and beild ane tufall to thair gavill wall of thair closett hous"—implies that the buildings abutted on the Freir Gowill. *B. C. B.*, 22nd May 1572.

[6] *B. C. B.*, 25th March 1575.

of the ground was taken up by the Convent or Mekill yard, for which George Congilton paid a rent of three pounds,[1] the Warden yard worth twenty-two shillings annually,[2] and the small "Eister" yard upon which the Magistrates forbade the erection of any buildings.[3] In course of time, the friars also became possessed of a plot described as the "Commone Douket callit the Freir Douket," producing a rent of four pounds eight shillings,[4] of an acre in the "Capoun Flatt" on which a crop of barley was grown,[5] of a croft on the east side of the Poldrait leading from the friary to the Nungate Bridge,[6] and of the Lime Hole, or "the grund quher upon the said lyme hoill is biggit," which the friary tenant contended "was of all tymes bypast usit be the freris foresaidis without impediment . . . and sett to utheris be thame."[7] In the year 1478, by the gift of Sir James Cockburn of Clerkington, they acquired a more important croft then known as the "Kingis Palace,"[8] afterwards the Freir Croft—under the obligation to perform certain anniversary services for the soul of the donor. This proved to be one of the rare cases in which such conditions attached to a gift of land or heritable security under the old régime were recognised as permanent legal burdens after the patrimony of the Church was seized by the nation.[9] The croft lay 3 roods south of Church Street[10] and extended southwards to the north wall of the parish cemetery and the Vicar's garden. In 1559, Saint Catherine's Chapel and the lands of Robert Schort and Richard Wause bounded it on the north, the King's Walls

[1] *B. C. B.*, 6th March 1560–61, 10th December 1561, 4th December 1572.

[2] *Ibid.* [3] *Ibid.* leased for fifteen shillings.

[4] *Ibid.* 2nd July 1560, 18th December 1561.

[5] *MS. Power of Attorney*, 4th August 1560; *infra*, II. p. 47.

[6] *B. C. B.*, 21st April 1574.

[7] *Ibid.* 22nd May 1572. Lease dated 10th and 25th August 1556 granted by the Provincial Vicar and six Wardens.

[8] *Reg. Mag. Sig.* (Print), II. No. 2375, also called the "Kingis Yaird."

[9] On 17th November 1478 the friars granted a Backbond to Sir James, undertaking to restore the croft if they failed to perform the mass; and in 1592, after it had been in the possession of the Magistrates for twenty years, his heirs successfully assailed this vice in their title, receiving a substantial indemnity for the renunciation of their rights. MS. Decree incorporating this obligation, *infra*, II. p. 68.

[10] From which it was separated by a plot of ground, 8 roods in length and 3 in breadth, confirmed to Robert Trent on 26th October 1497.

(of Sydgait) on the west, and on the east it is indefinitely described as abutting on the "buttis" and the "sands."[1] Upon it a grain crop was also grown, as we learn from the doings of Friar William Sinclair in the Burgh Court on the forenoon of 23rd February 1542. "For the savite of thar cornis in the freir croft," five out of the six friars then resident in the friary[2] considered it prudent to wall in the croft, and sold the stones from one of their other walls to John Lawtay, the town treasurer, in order to defray the cost. Friar Sinclair, however, protested before the bailies that the Warden had "na power to vedsett nor analy na geir belangand to the Place,"[3] and demanded the rescission of the sale. Treasurer Lawtay expressed his willingness to return the stones at the price paid by him to the Warden; but at two o'clock in the afternoon the chapter ratified its bargain in the friary before Bailie Thomas Ponton, and bound themselves never to "cum in the contrair bot to defend the samyn."[4] For this infraction of his vow of obedience Friar Sinclair doubtless suffered correction at the hands of his Superior; and he did not dissent from the corporate decision when the chapter, in virtue of the authority conferred by the *Dudum per* of Clement VII.,[5] agreed to discharge an annual rent of twenty-four shillings secured over Greenlaw's Tower in return for an immediate payment of sixteen pounds.[6] So far as is known, the friars owned no other lands within or without the burgh.

At the Reformation, the ecclesiastical buildings of Haddington bore evident traces of the damage inflicted upon them during the siege of 1548. The decade of peace following upon the Treaty of Boulogne witnessed the partial restoration of the simple friary church; but its more stately neighbour, the Lamp of Lothian, remained in a complete state of disrepair until 1562. As the expense of reconstruc-

[1] *MS. Precept of Sasine*, 9th October 1559, and relative deeds; *infra*, II. p. 44.

[2] Summary, *infra*, p. 193.

[3] The canonic sanction to do so was expressed in the *Cum saepe numero* of Leo X., 27th November 1519.

[4] *MS. Protocol Books*, Alexander Symson, 1539–42, ff. 30, 134.

[5] 7th March 1524. [6] *MS. Protocol Books, ut supra*, 1542–44, f. 63.

tion and repair was beyond the resources of the burgh, it was agreed to abandon the choir; and the assistance of James, Earl of Moray, was enlisted under a contract, in which he promised to contribute six hundred merks by termly instalments, if the town provided one hundred pounds yearly from the Common Good. The immediate purpose was to "byg, beild and reedyfie sufficiently" the fabric of the church *extending from the steeple to the west gable*, and to roof in the south "tufall" "with thayk of sklait and ruif," so that the burghers might worship safe from "injurie of wedder." The north "tufall" was also to be rebuilt, and lights and glass provided for the whole building. When these repairs had been effected, it was decided to proceed with the "croce kirk of the said paroche kirk ay and quhill the samyn be perfittit and byggit with wallis, ruffis, lychtis and utheris necessaris apperteyning therto"; provided always "that the queir of the said paroche kirk, quhilk wes of befoir and now left out of this contract, may be demolisit and tane doun" as is thought expedient, and its material used for the repair of the other parts.[1] In these circumstances, it is not surprising to find that in 1561 the Magistrates issued stringent orders against the demolition of the friary church, probably at that time the only suitable structure in the burgh for public worship. As a survival of the custom prevalent under the old régime, John Henderson summoned George Ayton to appear within the "freir kirk" on 13th May 1561 to accept the redemption money of his forebooth and inner vault. In the absence of the friars, however, the debtor did not place the money upon the altar at his creditor's risk, but resorted to the civil courts to compel acceptance of the fifteen pounds tendered by him.[2] Eleven years later, the demolition of the church was decided upon immediately after the Town Council had concluded a final agreement with John Auchinleck, the last Warden of the friary. Its pavement was removed to and laid in the parish church.[3] Three roods of the "freir kirk passand north and

[1] *MS. Contract*, 2nd March 1561–62, between James, Earl of Moray, and Patrick Cockburn, Provost of Haddington, with sundry others. *Reg. of Deeds*, V. f. 66. G. R. H.

[2] *B C. B. eod. die.*

[3] *Ibid.* 7th November 1572.

contenand the chalmer hall and kitchen" were feued to John Grey,[1] and its east gable was offered to Sir Thomas Cockburn of Clerkington; but if he refused to accept the gift, the treasurer was directed to pay him twenty merks "for causes."[2] Sir Thomas accepted this offer, and a year later he was charged to cast down and remove the wall before St. Mungo's day, with the further intimation that "gif he do nocht the samyn, the toun will cast doun the samyn."[3] For the convenience of the feuars a gate was opened into the Freir Gowill at the town's expense,[4] and a considerable portion of the site is now occupied by Trinity Church (Episcopalian).

The first mention of the Franciscans of Haddington occurs in the year 1242, when the young Master of Athol was buried in their graveyard, unmourned for and without the offices of the Church, after he had been foully burned to death in his lodgings by certain "ministers of evil."[5] In 1259, we catch a glimpse of the friar preacher delivering his Easter sermon on the sufferings of Christ to a congregation of the burghers assembled in one of the town squares. After the custom of the time, his discourse was punctuated by the comments of his listeners, on this occasion to the discomfiture of one of their number. To attract attention to himself rather than to edify men's minds, narrates the Franciscan Chronicler, he haughtily challenged the statements of the preacher, maintaining that it was no crime to yield to the dictates of the flesh during that solemn season. Sternly rebuked by the friar, the swashbuckler quitted the meeting; and the same evening he met his death in a brawl that he provoked with one of his neighbours, all as had been prophesied by the friar.[6] At this time, the royal alms granted for the support of the friary were represented by a weekly allowance of three shillings,[7] but in 1329, along with the other five Conventual

[1] *B. C. B.*, 30th November 1572. Feu-duty, 30s.

[2] *Ibid.* 4th December 1572.

[3] *Ibid.* 18th November 1573.

[4] *Ibid.* 22nd February 1572–73.

[5] *Lanercost Chronicle*, pp. 49–50. This burial was contrary to the provisions of the *Ita vobis*, pp. 6, 416.

[6] *Ibid.* p. 68.

[7] *Hist. Doc. Scot.* (Stevenson), II. 244–47. Edward I. ordered the payment to be continued out of the burgh fermes. John Balliol also made them a gift of £4.

friaries, Haddington became a permanent creditor of the Scottish exchequer to the amount of twenty merks annually from the Castlewards of the bailiary of Haddington, in terms of the generous charter granted by Robert the Bruce.[1] The Sheriff Collectors were, however, indifferent paymasters, and their defalcations roused the friars of Haddington and Dundee to lay a joint complaint before Parliament concerning the accumulation of arrears. Their petition met with complete success, and the Regent was directed to see that his letters to the sheriffs were obeyed in every point.[2] Otherwise, the royal charities to this friary were restricted in extent. Ten merks were contributed towards the fabric of the church in 1362;[3] and three years later a gift of fifty-four shillings was received from the King.[4] In 1490, a special grant of three bolls of wheat was made by James IV., and three other gifts from his privy purse illustrate the exceptional generosity of this Franciscan benefactor.[5] That of forty-two shillings on 18th November 1507 for "the Kingis Belcher in the Freris" indicates that he partook of the friary hospitality on that date. Four years previously, the resources of the friary were severely taxed to provide accommodation for the night for the large retinue that accompanied the Princess Margaret of England on her progress northward.

The charitable bequests of the laity to the friars of Haddington were rivalled only by those granted to the friars of Dundee. The earliest in date—the first Franciscan endowment of which we have any knowledge—was an annual rent of six merks granted by some unknown donor in 1287 out of certain lands within the burgh known as Ralph Eglinton's Acres.[6] The purpose of this grant was the "furnesing of wyne, walx, ule and other necessar thingis within thare kirk of the said burgh to the uphald of divine service within the sammyn;" and it is clear that the friars

[1] *Exch. Rolls*, 3rd July 1471, complete entry.
[2] *Acts of Parliament* (Thomson), I. 558.
[3] *Exch. Rolls*, 13th August.
[4] *Ibid.* 21st January 1365.
[5] *Accounts of the Lord High Treasurer*, 16th August 1497, 18th November 1507, 15th June 1508.
[6] *MS. Notarial Instrument*, 12th February, 1527–28; *infra*, II. p. 24.

enjoyed uninterrupted possession of this annual rent until 1560.[1] The land underwent many vicissitudes,[2] and there were occasions on which the feudal rights of the Crown threatened to prejudice the friary exchequer. One such occurred in 1513, when forfeiture was threatened because the possessor had not entered with the Crown. Warden Harlaw, however, boldly protested before the Lords of Council at Edinburgh that, "quhatever the Lordis did anent the mater persewit be the King of nonentres of the akeris of Hadington, hurt nocht thame (the friars) sen the Lordis war na jugis to thame!"[3] Greater consideration was doubtless accorded to the more tactful plea advanced by the procurator of the burgh, that the King had promised that his gift of the acres to John Lawson "suld nocht haif effect gif the toune of Haddingtoune murmourit it."[4] Desultory proceedings during the next fourteen years were terminated by an Inquest of the lands and a decreet upon them against John Crumbie.[5] Two months later the magistrates induced the friars to abandon their right to the annual rent of six merks, under mutually advantageous conditions. The burgh assumed responsibility for an equivalent annual payment to the friars, and also guaranteed due payment of two other annual rents worth twenty-eight shillings secured over the tenements of Robert Greenlaw and Robert Wilson—"gif it sall happin in ony time to cum that the saidis landis beis nocht poindable and strenzeable for the saidis annuellis, or that the saidis Wardane, convent and thare successouris can nocht get payment thareof, doand thare exact deligence for persewing of the sammyn."[6] The generous spirit in which

[1] *B. C. B.*, 23rd November 1559.

[2] In 1500, it was in the possession of the family of Ralph Eychlyng, and his bailie leased it at the accustomed rent, with the consent of the friars. Tack, 22nd February 1499–1500; *infra*, II. p. 23.

[3] The friar here reasserts the old Franciscan privilege conferred by Gregory IX. under the *Cum non deceat.*

[4] *MS. Acta. Dom. Concil.*, XXV. f. 172; *infra*, II. p. 73.

[5] 1st July and 4th December 1527.

[6] *MS. Notarial Instrument*, 12th February 1527–28; *infra*, II. p. 24. In pursuance of their obligation to use diligence before having recourse to the town, the friars poinded Wilson's tenement on 9th October 1554, 8th October 1555, and recovered payment on 12th November following; *B. C. B.*, under dates.

the magistrates carried out this agreement may be appreciated from the receipt granted by the friars in 1538 for twelve pounds in lieu of three succeeding annual payments, "thankfully payit aforhand of the townis gud mynd for to help big our dortur quhilk is fallen downe."[1] The second and third endowments arose out of the recently established custom of admitting the laity to burial within the precincts of the friary. The mother of Sir William Lindsay of Luffness was "buried with the friars" at some date prior to 1293, and the Laird of Luffness directed the Abbot of Newbattle to entertain the Friars Minor of Haddington at the cost of one merk annually on the morrow of the Feast of Pope St. Gregory, so long as they celebrated a solemn Requiem mass on that day for Lady Margaret's soul.[2] The parents of Sir John Congilton were also buried in the friary church beside the altar of St. Duthac, its patron saint; and, in 1314, their son made provision for the supply of bread and wine to this altar in return for the celebration of an anniversary service so long as three friars remained in the convent.[3] Thirteen years later, the friary rental was augmented by the generosity of the family of Seton, which appears to have held the friars in high repute during the whole of the fourteenth century. For the ornaments and vestments of the church, an annual rent of twenty shillings was granted by Sir Alexander Seton out of the Mill of Barnes on Christmas day 1337,[4] and this was increased to three pounds by William, first Lord of Seton, who was buried in the friary about the year 1409.[5] From Sir David de Annand, the friars received a ratification of their right, under his ancestor's charter, to remove as many coals as they could use from his town and barony of Tranent, and this privilege was also confirmed by Lord William

[1] *MS. Receipt*, 2nd April 1538; *infra*, II. p. 27.

[2] *Indenture*, 30th November 1293. Excerpt, *infra*, II. p. 8, from *Lives of the Lindsays*, I. 418; Newbattle Chartulary. The Carmelites of Luffness received one half merk in return for similar anniversary services.

[3] Douglas, *Peerage*, p. 521, quoting *Archiv familiae*.

[4] *Family of Seton*, p. 844.

[5] Maitland, *Genealogy of the House of Seton*, p. 24. Lord William is believed to have been a member of the Third Order.

Seton on 26th November 1380;[1] but Maitland limits the quantity to "saix laid of coillis to be tane of his coilpot of Tranent."[2] Another local family which evinced an active interest in the welfare of the friary were the Haliburtons, Lairds of Carlowry, and the indenture entered into between the friars and Sir William Haliburton in 1389 indicates that his grandfather had also been one of their warm supporters. Under this deed, Sir William granted an annual rent of ten merks from his lands of Dremhills for the erection of an altar in honour of St. John the Baptist, on the north wall of the nave, and thereafter for furnishing it with books, vestments, bread, wine and other necessaries. On their part, the friars undertook to perform a daily mass at this altar for the souls of the founder and his family, as well as a solemn mass with funeral rites on the obit day of Sir Alexander, his grandfather, so long as there remained two friar chaplains in the friary.[3] For 160 years the friars were undisturbed in their possession of this endowment until, at length, the English occupation of Haddington in 1548 reduced the tenants of Dremhills to penury, much in the same manner as Lord Wharton's operations on the West Marches dispossessed the tenants of the Dumfries friary. Nevertheless, the rents for the years 1548 and 1549 were demanded, and in 1550 the four tenants were summoned before the Lords of Session in respect of non-payment. Decree for twenty merks went against them by default, the archaic warrant for diligence authorising the Chapter to "mak penny of thair reddiest guddis to the avale of the soume of twenty merkis money foirsaid restand awin to the said Wardane and convent."[4] The infeftment on which this action proceeded has already been referred to in relation to the independence of the Scottish Vicariate;[5] and we further learn from it that Friar Patrick of Hawick, afterwards Warden of Haddington, was delegated by the anti-Urbanist Minister General to the office of Visitor during the early years of the great Western

[1] *Family of Seton*, p. 844. Reconfirmed with the consent of his son on 6th October 1404.

[2] *Genealogy*, p. 24.

[3] *Indenture*, 22nd July 1389 *infra*, II. p. 8.

[4] *MS. Reg. Acts and Decreets*, III. f. 466; *infra*, II. p. 10.

[5] *Supra*, p. 15.

Schism. He is the only Scottish Conventual who is known to have risen to high office in the Order.

A century after the foundation of this altar, the family of Haliburton gave further proof of its appreciation for the work of the friars, when Sir John Haliburton, Vicar of Greenlaw, selected them as administrators and chaplains of his munificent charity to the poor of East Lothian. In an indenture which he entered into on 11th June 1478[1] with Warden John Yhare, and the eight friars then resident in the friary, Sir John became bound to infeft them in his tenement on the south side of the Poldrait, and another on the south side of the Northgate. A portion of the tenement in the Poldrait was to be converted into an almshouse furnished with three beds, and the remainder was burdened with certain annual rents for its upkeep and the celebration of divine service in its oratory. The Franciscan Warden was appointed Master at a yearly salary of forty pence, under obligation to render an account of his intromissions to the Chapter, "and als lang as he doys well to be continewit." The benefits of the charity were confined to "bodiis borne or upbred of the Barony of Dirltoun," the right of presentation to two of the three beds being reserved to the founder during his life, and thereafter to the Lairds of Dirleton. If the Laird neglected to present a pauper within twenty days from the date on which the bed became vacant, the burgh of Haddington was empowered to "gif the said person or persones to the said beddis, and their persones in the said house to remane quhill thai lif, bot gif thair opyn demeritis cause thaim to be put forth." The third bed was placed at the disposal of the Warden or his servant for offering a night's shelter to any poor person. As befitted a quasi-religious foundation, a certain attention to the offices of the Church was demanded of the inmates, and in every case the Warden was entrusted with the duty of examining the entrant's scriptural knowledge and his ability to say his Pater Noster, Ave Maria and Credo. Each day they were bound, as a condition of residence, to recite the psalter of our Lady three times, and "ilk nycht at the bel of curfur say five Pater Nosters, five Aveys and a

[1] *MS. Indenture*, *infra*, II. p. 13.

Crede," and "gif thai be letterit the De profundis." In addition to the celebration of masses and other services in the friary and the parish church, the friar chaplain was bound to say one mass every Sunday after eleven o'clock in the oratory of the almshouse, and subsequently, as the yearly value of the endowment increased, one upon Friday and another on Wednesday, until the service was complete. The friars were also entrusted with the duty of distributing forty pence worth of bread among the poor on Candlemas Day, after mass had been said by six priests in the friary and parish churches. One merk yearly was apportioned for building repairs, the upkeep of the beds, and furnishing the oratory with "buk, vestment and chalice." The purchase of rolls of bread for the inmates between Whitsunday and Michaelmas, and of oatmeal between Martinmas and St. Andrew's Day, absorbed two merks annually; while the surplus revenue, after payments for the masses, candles and the services of the town bellman, was "waryit upon the purvyans as said is to the sustentacione of the said puir bodies." The institution was formally approved of by James III. five years later in a Charter of Confirmation which, along with several other documents relating to the Franciscans of Haddington, has disappeared from the burgh charter chest.[1] The subsequent history of the almshouse and distribution of bread to the poor of Haddington is wholly unknown; and, in the same connec-

[1] *Inventory, ibid.* No trace can now be discovered of the Friary Rental Book which was in existence in 1543 (*MS. Renunciation, infra*, p. 193), and was handed over to the Town Council along with the writs, evidents and a supplementary memorial of the annuals by Warden Auchinleck on 21st April 1574. The other important documents for the Franciscan student, now missing from the charter chest, are—

Instrument of Sasine, 31st July 1472, in favour of the Minorites of Haddington of a house in Poldrait and Midraw.

Backbond, 17th November 1478, by the Friars of Haddington to James Cockburn (of Clerkington), to restore the freir croft if they neglect a yearly mass for his soul. *Vide MS. Decreet, infra*, II. p. 68.

Charter of Confirmation by James III. to the friars, 1st October 1483, of the croft in the Poldrait and divers other annuities. (This charter is not recorded in the Register of the Great Seal.)

Charter, 6th March 1487, by John Jedwart of a tenement in the Hardgate.

Letter of Alienation of their house, 10th October 1555, by the friars to the Magistrates of Haddington.

Tack, 1557, by the friars to James Tweedie of a yard in the Poldrait.

tion, no more than simple reference can be made to the relations between the Franciscans and the Hospital of St. Lawrence, which contributed annually out of its revenues a chalder of grain to the Burgh Leper House.[1] Founded and endowed by Richard Guthrie, Abbot of Arbroath, the Hospital was placed under the control of the Dominican Order. Nevertheless, the Franciscans of Haddington would appear to have been its spiritual directors, doubtless subject to the visitation of the Dominican Visitor; and, under the seal of, and on behalf of the Hospital, the Franciscan Wardens also granted the annual receipts for twenty shillings paid to it by the Bailies of Haddington out of the royal fermes.[2] This practice is somewhat remarkable, considering that the Hospital was administered by its own Master; but even after it had been formally annexed to the nunnery of St. Catherine in the Sciennes,[3] the receipts continued to be granted by the Franciscans.[4]

From and after the institution of the almshouse there is distinct evidence that the friars received a much more extended share in the burgher's charity, under the correlative and customary condition of performing obituary services for the souls of the donors and their families. In 1491 the Setons again evinced their interest in the friars. Under an indenture, dated 7th April of that year, Lord George Seton conveyed to Patrick Cockburn, burgess of Haddington, his tenement of land within the burgh under burden of the payment of the burghal ferme due to the King, an annual rent of 5s. to the parish church, and another of 6s. 8d. to the friars.[5] Walter Bertram, the devout Provost of Edinburgh and special patron of the Observatine Friars, endowed an altar in honour of St. Clement within the friary church, under circumstances which illustrate the friendly relations subsisting between the Franciscans and the Seculars. In spite of their once valued privilege of excluding the churchmen from their churches and cemeteries,[6] the friars acquiesced in the appointment of a

[1] *Liber St. Katherine Senensis*, p. 26. (Abbotsford Club.)
[2] *Exch. Rolls*, 23rd July 1530, *et seq.* [3] *Liber St. Katherine*, pp. 41–48.
[4] In 1596 the Freir Croft was disponed for its support; *Charter*, 10th December 1596; *Old Inventory*, Burgh Charter Chest.
[5] *Family of Seton*, pp. 845–846.
[6] *Virtute conspicuos*, 2nd August 1258; *infra*, p. 419.

secular chaplain to this altar at a salary of £9, 2s. 8d., with a further allowance of two pounds for ornaments and maintenance, to be expended in accordance with the advice of the Warden and the patron of the altar.[1] Under the surveillance of the friars, the chaplain was bound to say mass daily at his altar, having previously exhorted the congregation to repeat one Pater Noster for the souls of the Scottish royal house and the founder's family. Denied the right to appoint a substitute, he was compelled to remain in perpetual residence; and he was to be immediately deprived of his office if he omitted, when in health, to perform the mass for fifteen consecutive days, or if he were known to have a female companion or concubine. To the friary, Provost Bertram granted an annual rent of ten shillings as an endowment for a high mass on every vigil of St. Francis, preceded on the eve of the vigil by a placebo and dirige, after ringing of the bell through the town as was the custom for the dead. It was the duty of the secular chaplain to be present at these services and to report any failure in performance to the patron.[2]

Other burgesses who endowed the friary with annual rents for like purposes were the anonymous owners of two tenements in the Poldrait and Midraw,[3] one John Jedwart who gifted a tenement in the Hardgate, Robert Greenlaw, John Forton, Robert Galloway, Philip Gibson, John Sibbaldson, John Lethane and John Haliburton; but the loss of a portion of the friary records has deprived us of the names of many others whose charities raised its income from endowments approximately to a sum of fifty pounds Scots.[4] Of the other pecuniary benefits derived from testamentary charity but little is known, as only two bequests can be traced: the first, granted in 1392 by Sir James Douglas of Dalkeith, ancestor of the Earls of Morton, of a sum of £3, 6s. 8d.,[5] and the other of £10, granted in 1516 by Dame Catrine Lauder,

[1] Provost Bertram and his heirs, whom failing, the Bailies of Haddington.

[2] *Charter of Mortification*, 4th February 1494-95, incorporated in *Charter of Confirmation*, 14th March; *MS. Reg. Mag. Sig.*, XIII. No. 190, *infra*, II. p. 16.

[3] *Old Inventory*, *supra*, p. 180.

[4] *Vide* Summaries I. and II. at pp. 194–97. There are no data from which to establish the value of their crop.

[5] *Bann. Club Miscell.*, II. 109. 114; *infra*, p. 198.

spouse of John Swynton of that Ilk.[1] On occasion, the friars themselves purchased annual rents out of moneys that had accumulated in their hands through gift or the sale of land bequeathed to them;[2] and, in the spring of 1509, they appear as defendants in an action brought against them by a brother churchman, Chaplain John Croser. The matter at issue was the right of the friary to an annual rent of twelve shillings over a tenement in Calparis Gate[3] purchased by the friars after a process of apprising; but the arguments adduced by the chaplain's "forespeker," Master David Edmondston, failed to break down the defence offered by Sir Thomas Cockburn of Newbiggin, the procurator of the friary.[4] In 1522 the friary Chapter was again involved in legal proceedings, on this occasion as custodiers of a royal letter of gift of the ward and marriage of the lands of Mellerstanis, that had fallen to the Crown through the escheat of Lord George Hume. The Crown donee was George Haitlie of Broomhill, and his widow, Margaret Blacadder, as tutrix of his son John, demanded surrender of "the saidis lettres and evidentis, with the box that the samin ar put in, deliverit to him (Warden Harlaw) in keiping be the said umquhile George." The Warden had, however, to deal with several claimants for the ward and marriage of the lands. Lord Hume received letters of remission on 30th August 1522; and, fearing a revocation of her husband's gift, Margaret leased the ward and marriage to him. Her husband had, however, "made other assignees to the ward of Mellerstanis" and his testament was produced in probation; while the Prior of St. Andrews, as "Tutor Testamentar," appeared in the suit to defend the rights of the heir to the lands of Mellerstanis. In these circumstances, the Warden deemed it prudent to await his judicial rescript, which was granted

[1] Original in G. R. H.; *infra*, p. 198.

[2] *MS. Charter of Vendition*, 8th February 1505 (?); *MS. Instrument of Sasine*, 12th November 1513, *infra*, II. pp. 28, 32. In regard to the sale of land and purchase of annual rents a perfect case occurs in Dundee (p. 232). Unlike the Dominicans, who feued off many of their lands from the fourteenth century onwards, the Franciscans never appear as feudal superiors until they were compelled to resort to this device in the years immediately preceding the Reformation.

[3] The Common Vennel.

[4] *MS. Acta Dom. Concil.*, XX. ff. 114, 178, 202; *infra*, II. p. 72.

on 7th November 1522; and a fortnight later Mark Ker, who had replaced Margaret Blacadder as tutor-dative to John Haitlie, asked instruments on the production of "the gift under the prive seile made to George Haitlie of Broomhill." Thereafter, Mark Ker successfully defended John Haitlie's rights against Lord Hume, whose claim depended on the doubtful result of his own remission, and the lease granted to him by Margaret Blacadder prior to the opening of the suit. Warden Harlaw therefore acted in the interests of John Haitlie when he refused to surrender the letter of gift to his mother.[1] On 11th October 1530, we find Warden Harlaw in the burgh court in the rôle of pursuer, requesting the services of a serjeant and two witnesses necessary to the then tedious process of diligence against heritable property.[2] This was the third step in a poinding of a tenement, known as the Well Tower in Strumpet Street, from which an annual rent of ten shillings was due to the friary, and, as before, they found "na thing strengeable bot erd and stane, quhilk he present in court as the third court of this process."[3] Under date 10th September 1538 in the Protocol Book of Alexander Simson,[4] we find the unique record of the formal expropriation of George Hugo, who, "off his awin fre will with consent of his kyn and freindis, grantit to be professit in the Freiris Minoris of Hadinton in ralegioun of the same Order and to taik the aibet tharof." As the premium required on his admission, his mother handed the Warden ten merks and, along with one Jeannot Neise, undertook to pay a further sum of ten merks at Easter. In fulfilment of the ceremony

[1] *MS. Acta Dom. Concil.*, XXXIII. ff. 2, 104, 105, 128, 130, 145, 147, 176; *infra*, II. p. 73.

[2] In place of the still older procedure under which it was necessary to produce the doors, windows, and woodwork of the house in court, it was provided that "whasa sal wish to proceed in burgh for recourie of land or tenement unfruitfull, because the yeirlie rent is not paid, aucht to gang to the land or the tenement with witnesses and the burgh sarjant and tak erde and stane of that tenement and present to the balyes at the three head courts of the burgh. And thai stanes and erde aw to be placit in a pock saled with the balyes sale and keepit be the persewer to the fourth head court, and then the persewer sal schawe to the balyes in court the stanes and erde of the thrie preceding courts, and sal then craue decreit of possession, and it sal be given him of lawe." *Ancient Laws and Customs of the Burghs of Scotland*, p. 168. Burgh Record Society.

[3] *B. C. B., eod. die.* [4] *MS.*, Burgh Charter Chest, 1529 44, f. 110; *infra*, II. p. 36.

demanded by the Franciscan statutes, Hugo received the symbols of his father's heirship from his mother, returned it again to her for her own use; and thereafter he completed his severance from temporal interests by resigning his tenement on the west side of the Sidgait into the hands of Bailie Thomas Wause "for possession to be gyffyn to Elspeth Gothra and hir airis." In the following year, the young friar was one of the seven who acknowledged the redemption of a tenement at the east end of the market cross gate—"which they had in wadset of Richard Maitland of Lethington," and which was redeemed by his assignee John Wolston in the chapter-house of the friary on 13th December 1539—"be verteu and strenth of ane reversioun of the said tenement maid be umquhill Freir Adam Harlaw, Warden of the said place, . . . and seillit with thar commoun seill."[1] The Franciscans were stringently forbidden to contract debt and, *a fortiori*, to become creditors under a contract of loan; but there seems no other explanation of this incident than that the friars had lent the poet a sum of money, receiving in security his charter and sasine, and thereafter granting a deed of reversion according to the custom of the time. It is, however, possible that, desiring to provide for certain services, he had granted a bond over this tenement, so that the interest should serve as an annual rent until he was in a position to purchase one as an endowment; but this theory might not prove conclusive in the case of the two testators whose wills state that they owed forty shillings to the Friars Minor and four pounds and eighteen pence to one "Friar John Dawzell," whose Order is not specified.[2] As one of the granters of a discharge in 1543, Friar Hugo must also have shared in the refusal of his brethren to admit John Fleming to their Chapter, when the bailies and certain honest neighbours communed with them to see "quhat thai will have to mak Johne Flemyng ane freir." We may assume that this pauper was not even granted the permanent shelter of the almshouse, because the treasurer was

[1] *MS. Prot. Books*, Alexander Simson, vol. 1529–44, f. 28. The Instrument of Sasine was granted to Maitland of Lethington on 6th January following; *Ibid.* MS. Vol. 1539–42, f. 30, *infra*, II. pp. 36–38.

[2] *MS. Reg. Conf. Testaments* (Glasgow), f. 12a. *Ibid.* (St. Andrews), Janet Young, 14th March 1549-50.

directed to furnish him with clothing and sixpence for a day's meat; and the Council ultimately granted him an allowance of fifty shillings yearly, after the bailies had gone through the town to see who would give Fleming his meat.[1]

During the minority of Mary Stuart, East Lothian became a war-swept zone, and the material prosperity of its religious houses was severely crippled when Hertford burnt and desolated Haddington "with the freres and a nunry."[2] The mischief was completed during the English occupation and siege of the town which followed the young Queen's departure to France. At this date a rampart was built round the friary enclosing the foregate,[3] antecedent to the discharge of the two famous shots described by Knox as ricochetting between the walls of the friary church and St. Catherine's chapel, and mowing down more than a hundred Frenchmen![4] The aftermath of this siege was ruinous, uninhabitable, and often ownerless houses from which the friars had been wont to draw their annual rents. Arrears accumulated until the autumn of 1553, when Warden Congilton initiated a series of poindings to recover payment of an annual sum which represented about one-fourth of the income of their endowments. The processes dragged their weary length through the four courts until the autumn of 1555, when the "erdis and stannis clossit in sakkis under the seill of office" were presented. Three proclamations were then made "at the towbuyth window gif ony man wald compeir to pay the said annuell and to redeme the saidis tenementis." "Na man comperand, the Court waroit and it was gevin for dome be the mowth of the dempster that he[5] awcht to haif possession." At this juncture, the burghers were brought to a sense of their obligations, and wholesale payments, or promises to pay, were made, followed by the Warden's formal discharge of the processes which he had led upon the tenements—because the former owners or purchasers were now prepared "to content and pay the said annuell conform to the actis of the burnt land."[6]

[1] *B. C. B.*, under dates 29th January 1539, 20th July and 27th October 1540, 27th April 1542; *infra*, II. p. 79.

[2] Dalyell, *Fragments*, p. 11.

[3] Bain, *Cal. Scot. Pap.*, I. 123.

[4] *History*, I. 223.

[5] Warden Congilton.

[6] Under the several dates specified in Summary II., *infra*, pp. 195–97.

During the next few years the aged Warden is still to be met with in the burgh court on a similar errand; and, the issue of the Beggar's Warning notwithstanding, we find him there for the last time on 11th October 1559, protesting along with the procurator of the nunnery against any prejudice they might suffer in respect of John Forrest's diligence upon certain tenements in which they had an interest.

Meanwhile, in accordance with the general plan of action adopted by the Franciscans, the friars had considered the advisability of securing a provisional disponee, who would safeguard their lands and heritable endowments during the approaching crisis. A Letter of Alienation of their house was granted to the Magistrates on 10th October 1555,[1] and this disposition was homologated in a Precept of Sasine granted by Warden Congilton on 9th October 1559 "for the singular favour, good deeds, help and protection accorded to us by the aforesaid provost, bailies, councillors and community, against the invaders of our Order and our foresaid convent during the present calamity that has fallen upon the religious and churchmen."[2] The provisional nature of this disposition was acknowledged two days later in an undertaking by the burgh, to renounce and quitclaim the subjects in favour of the friars, "while they are permitted to live in the habit and under the rule of the Conventual friars as they have heretofore done";[3] and in the same spirit the magistrates paid forehand the sum of six merks in terms of the old agreement concerning Ralph Eglinton's acres.[4] On 18th April following, their infeftment of the friary lands was completed by Instrument of Sasine; but when we read that they received a Charter of Confirmation under the Great Seal from the Queen Dowager,[5] we can only conclude that they had as yet given no proof of anti-Romanist sympathies. During the stirring events that led up to the Treaty of Edinburgh, the friars would appear to have

[1] *Old Inventory*: deed now lost. The yards were leased to a number of tenants, *infra*, II. p. 93.

[2] *MS. Precept of Sasine* and relative *Instrument of Sasine*, 18th April 1560, *infra*, II. p. 44.

[3] *MS. Notarial Obligation*, 11th October 1559, *infra*, II. p. 46.

[4] 23rd November 1559.

[5] *MS. Declaration of Sasine*, 30th October 1562, Burgh Charter Chest.

continued the even tenor of their ways, sowing and cultivating their crops as heretofore. Friar John Auchinleck[1] was promoted to the wardenship during the summer of 1560, and from his Power of Attorney we learn that he deemed it prudent to appoint the provost to factor and gather their corn and acre of barley on the "Capoun Flatt," enigmatically described as held in feu by the Warden.[2]

With the granting of this writ, we enter upon the history of the duel between the magistrates and Warden Auchinleck for the possession of the friary and its revenues. It lasted until 30th October 1572, when the sweets of victory rested with the legal acumen of the quondam friar. During these years the fate of his benefice was wholly exceptional. No return of its revenues was made to the Collector of Thirds in accordance with the Order of the Privy Council; and, while a certain number of the burghal annual rents passed into the Common Good under the intermediate and final agreements, no definite trace can now be discovered of the more valuable endowments secured over landward subjects. Two friars remained in Scotland to share the friary revenues with their Warden. Thomas Lawtay, who was a member of the Chapter in 1559 and entered the friary at Lanark in 1560, formally recanted and received the Mendicant pension of sixteen pounds.[3] He also secured an assignation to himself of an annual rent of three pounds from the tenement of James Cockburn,[4] and it is to be presumed that he had died or quitted Haddington before the autumn of 1572, as he took no part in the transference of the friary to the town. Friar Patrick Allan, on the other hand, did not receive the Mendicant pension, and is first met with on 27th November 1573, when, in return for a payment of six merks,[5] he appended his signature to the charter granted to the town by Warden

[1] *Alias* John Affleck, *B. C. B.*, 30th August 1568.

[2] *MS. Power of Attorney*, 4th August 1560, *infra*, II. p. 47.

[3] *MS. Accounts, Collector-General*, 1561–66, Exonerations.

[4] In the record of this formality, he is designed as "Thomas Lautay, alias Freir Thomas Lautay"; but this is not, perhaps, conclusive evidence that this annual formerly belonged to the friary, and that he received it as a quondam friar. *B. C. B.*, 3rd March 1565–66.

[5] *B. C. B., eod. die.*

Auchinleck on 12th December of the preceding year. By law he was entitled to receive an equal share of the twenty-two pounds now paid annually by the burgh; but in this he was disappointed for the space of two years. He thereupon instituted an action for payment of twenty-two pounds annually during his lifetime, with the result that the Town Council deemed it advisable to recognise his claim.[1] Tardy justice was accorded to him under the cloak of fictitious generosity on 23rd March 1575, when he was constituted the town's creditor in an annual payment of twelve pounds and one payment of four pounds with which to meet his current debts —"haiffand consideration of the greit pouertie of freir Patrik Alane, ane native born barn within this burgh, greit aige, infirmite of his body, and decrepitnes therof."[2] The Council was, however, careful to procure a renunciation of all his rights to the friary or its revenues, and the last extant receipt for his allowance is dated 22nd May 1578.[3]

Whatever provision may have been made for Friar Allan before 1573, his masterful and unbrotherly Warden kept a vigilant eye upon his own interests. His first step was to confirm Warden Congilton's conveyance to the Town Council and, immediately thereafter, to infeft George Simson also in the friary property.[4] Under the exception of the west yard and lime hole in the possession of Warden Congilton's tenants, the magistrates leased the Freir Croft and the yards from year to year,[5] using the rents to pay Auchinleck a pension of sixteen pounds granted to him by Queen Mary under a letter of gift.[6] Matters remained in this position until the autumn of 1564, when the Warden was refused payment of this pension unless he consented to grant receipts for it in terms acceptable to the Town Council.[7] Determined not to abrogate any of his rights in the property, he proceeded to consolidate his title to the superiority by formally constituting George Simson his vassal, under sasine and charter granted at North

[1] Cf. analogous case of George Law, *infra*, p. 214.
[2] *B. C. B.*, 23rd March 1574–75.
[3] *MS. Receipt*, *infra*, II. p. 67.
[4] *MS. Declaration of Sasine*, 30th October 1562.
[5] *B. C. B.*, 2nd July 1560, 1st March 1560–61, 11th December 1561.
[6] *MS. Reg. Privy Seal*, XXXVI. f. 23, *infra*, II. p. 52.
[7] *B. C. B.*, 17th November 1564.

Berwick in the month of August 1565.[1] These writs were then produced at Edinburgh for the grant of a Crown Charter of Confirmation, and the petition was granted on 7th January following[2] under circumstances which point clearly to collusion between the officials of the Great Seal and the granter or grantee. The charter proceeded on the narrative that it was granted in terms of the Act homologating the infeftments of church lands granted by the Churchmen prior to 6th March 1558–59.[3] But we know that the magistrates' Sasine dated from 9th October 1559, and that George Simson's original right was created after that date.[4] Nevertheless, and in spite of the explicit prohibition against the alienation of church lands beyond the triennial limit fixed by the Act of 1563, George Simson was permitted to enter with the Crown, and paid his composition on the registration of the charter in the Abbreviates of Church Lands.[5] In thus permitting Simson to complete his title to the property of the lands, and thereby consolidating the Warden's title to the superiority, the magistrates lost a golden opportunity, and their position was not rendered more acceptable by the previous assignation of Simson's rights in the friary yards, croft and douket to John Grey for three years from 21st December 1564.[6] In January 1566, the Warden-superior's procurator openly poinded five tenements for payment of annual rents formerly in possession of the friary, the second and third courts of this diligence being held on 30th April and 8th October following;[7] and, in further vindication of his pretensions, he procured a second royal letter of gift increasing his pension from sixteen to twenty pounds by the inclusion of the six merks formerly payable out of Ralph Eglinton's acres.[8] As a countermove,

[1] *MS. Feu Charter, Precept and Instrument of Sasine, infra*, II. p. 48. The feu-duty was £20, 0s. 9d.

[2] *MS. Precept Reg. Privy Seal*, XXXIV. f. 45; *MS. Crown Charter*, in Burgh Charter Chest, not recorded in the Register of the Great Seal.

[3] *Supra*, p. 151.

[4] *MS. Declaration of Sasine*, 30th October 1562.

[5] *MS. Abbrev. Cartar. Feudifirme Terrar. Ecclesiasticar.*, vol. 1564—22nd April 1569, f. 180.

[6] *B. C. B., eod. die.*

[7] *Ibid.* 22nd January 1565–66; 30th April and 8th October 1566.

[8] *MS. Letter of Gift*, 21st March 1566–67, *infra*, II. p. 52.

the Town Council procured a blench Crown Charter of the ecclesiastical properties within their jurisdiction, subject to the liferent of the friars over their old home ;[1] and thereafter they maintained their refusal to pay the Warden's increased pension, doubtless on the ground that his rights, as a friar, were satisfied by the feu-duty received from his vassal. Auchinleck held other views, and procured a warrant under the Signet charging the Town Council to comply with Queen Mary's second letter of gift, because "the possessouris, tenentis, annuellaris and occupiaris of the saidis akeris, landis, tenementis . . . will nocht answer our moderis letteris."[2] In the following year a compromise was effected, whereby he abandoned his right to the annual of Ralph Eglinton's acres, and to another of twenty shillings from James Hamilton's tenement on the north side of the Tolbooth Gate, in return for a sum of six pounds supplemented by an annual payment of forty shillings.[3] Meanwhile the friary had been sold by George Simson to George Scott of Sinton,[4] and the new vassal paid his first year's feu-duty forehand to the Warden.[5] It was now clear that the Town Council could not redeem the lands without granting substantial compensation to George Scott ; and the passing of the Act of 1571, which vested the superiority of friary and nunnery lands in the Crown after the death of the last friar-liferenter, called for immediate action on their part, as their own suspensive blench charter might be nullified by the grant of the superiority of the friary and its pertinents to some successful favourite at court. Seven hundred merks was the sum agreed upon ; and, assembled within the Tolbooth by sound of the hand bell, the bailies decided to borrow six hundred merks of this sum from the provost, "for performing of the appointment betwix the toun and Georg Scott."[6] But the vigilant Warden had not been made a party to this

[1] *MS. Precept, Reg. Privy Seal*, XXXVI. f. 72 ; *Charter, Reg. Maq. Sig.* (Print), IV. No. 1776, 24th March 1566–67.

[2] *MS. Letters under the Signet*, 23rd July 1567, preserved in the Burgh Charter Chest ; *infra*, II. pp. 53–55.

[3] *B. C. B.*, 30th August 1568.

[4] *MS. Feu Charter*, 17th October 1567, *infra*, II. p. 55.

[5] *MS. Receipt*, 19th December 1567, *infra*, II. p. 57.

[6] *B. C. B.*, 4th September and 10th October, 1572.

agreement that threatened to curtail his income; and he therefore brought matters to a deadlock by recording letters of inhibition against his vassal.[1] He too was pacified, either by a gift of money or a promise of the readership in Athelstaneford parish church, and on 30th October 1572 he withdrew his inhibition; while, "be the faythe of ane gentilman," George Scott denied having granted any leases or writs affecting immediate possession of the lands.[2] Thereafter, all the parties proceeded to the friary at three o'clock in the afternoon and there, after dual resignation by staff and baton had been performed by his vassals, George Scott and George Simson, Warden Auchinleck granted sasine to Provost Cockburn on behalf of the town, a notarial protest being made on its behalf that this infeftment merely imported an accumulation of rights to that granted by Warden Congilton on 9th October 1559.[3] The relative Feu Charter of 12th December following stipulated for a feu-duty of twenty pounds and ninepence,[4] and it was delivered to the burgh's representatives along with the Notarial Obligation of 11th October 1559;[5] so that the only impediment to immediate possession of the entire friary lands were the old leases, now fortified by Act of Parliament. George Congilton accordingly received three pounds for "ourgevin of his rycht and kindness of the freir yard";[6] twenty pounds were paid to John Mayne for the surrender of his Instrument of Liferent of the Chalmer House and Cloister yard;[7] and John Tweedy abandoned the yard on the east side of the Poldrait on terms now unknown,[8] Warden Auchinleck receiving six merks for the grant of a special sasine of those subjects.[9] Five weeks earlier, he had

[1] *MS. Protocol Books*, Thomas Stevin, vol. 1565–74, 30th October 1572; Burgh Charter Chest.

[2] *Ibid.*

[3] *MS. Instrument of Sasine and Notarial Protest*, 30th October 1572, *infra*, II. pp. 58–61.

[4] *Infra*, III. p. 61. The Town Council still remained bound to pay a further sum of £2 annually, in terms of the agreement concerning Ralph Eglinton's acres concluded on 30th August 1568.

[5] *MS. Prot. Books*, Thomas Stevin, *ut supra*, 12th September 1572.

[6] *Ibid. eod. die; B. C. B.*, 27th February 1572–73.

[7] *B. C. B.*, 29th May 1573.

[8] *MS. Prot. Books*, *ut supra*, 21st April 1574.

[9] *B. C. B.*, 28th May 1574.

surrendered the entire writs and charters in his possession to the magistrates, "as their awin evidentis in all and be all thingis as he and the saidis freris mycht have usit the samyn";[1] and when next met with he is designed as "Jhone Auchynleck, reidar at the kyrk of Elstanfurd, Jesus."[2] Three years later he prepared a rental and memorial of the friary annuals,[3] and finally disappears from record on 27th November 1577, thirty-four years from the date when he was first known to us as a Franciscan friar.

Wardens of Haddington

Andrew de Douraid, 1309.
Richard Lyon, 1389. Patrick of Hawick, *circa* 1400.
John Yhare, 1471, 1478, 1495, 1501.
Adam Harlaw, 1512–14–16–22–27–28–30–34–35.
John Straithaven, 3rd August 1535–40, 1541–43.
John Congilton, 1550, 1553–58, 23rd November 1559.
John Afflek or Auchinleck, 4th August 1560.

The Friary Chapter

11*th June* 1478, Warden John Yhare, Friars Thomas Feyld, Thomas Young, Nichol Balylie, Thomas Glen, Thomas Fayr, John Lyell, Huchoun Rede and Robert Howgoun.

11*th November* 1478, David Rae and Robert Thorbrand (additional); Thomas Feyld and Thomas Young awanting.

2*nd April* 1538, Warden John Straithaven, Friars John Congilton and John Borthik.

13*th December* 1539, Warden John Straithaven, Friars William Sinclair, John Purro, John Congilton, John Borthik, William Hepburn and George Hugo.

23*rd February* 1541–42, Warden John Straithaven, Friars William Sinclair, John Congilton, George Hugo, John Moncur and Henry Bald.

[1] *MS. Protocol Books, ut supra*, 21st April 1574.

[2] *MS. Receipt*, 7th September 1574. He was appointed Reader in accordance with the act of General Assembly (1573), enlisting members of the old faith in the service of the reformed Church. His salary was supplemented by the annual payment of £22 from the Magistrates of Haddington. *MS. Receipts*, 1572–77, *infra*, II. p. 64.

[3] *B. C. B.*, 22nd November 1577.

3rd November 1543, Warden John Straithaven, Friars William Sinclair, Henry Bald, John Congilton, John Moncur, William Hepburn and John Afflek.

— 1557–8–9, Warden John Congilton, John Auchinleck or Afflek, Patrick Allan and Thomas Lawtay.

Procurators of the Friary

John Lawson, 1499, 1513.
Thomas Cockburn of Newbiggin, 1508–09.

ENDOWMENTS

SUMMARY I

Landward and Burghal Annual Rents in the possession of the Grey Friars of Haddington, 1287–1560, of which most of the title deeds are now in the possession of the Burgh.

Annual rent of six merks payable out of lands within the burgh known as Ralph Eglinton's acres	£4	0	0
Item one merk payable by the Prior of Newbattle out of an endowment granted to the Abbey of Newbattle by Sir William Lindsay, 1293	0	13	4
Item endowment granted by Sir John Congilton in 1314 for furnishing the altar of St. Duthac with bread and wine; amount unknown	0	0	0
Item one pound granted by Sir Alexander Seton from the Mill of Barnes, 1337, and increased to three pounds by William, first Lord of Seton, *circa* 1380	3	0	0
Item ten merks from the lands of Drem granted by William Haliburton, Laird of Carlowry, 1389, for the erection, furnishing and maintenance of the altar of St. John the Baptist	6	13	4
Item four merks and thirty pence granted by Sir John Haliburton, Vicar of Greenlaw, for maintenance of an almshouse in the Poldrait, of which sum, subject to its annual increase, the friars for their own use annually	1	12	10
Item granted by Robert Greenlaw, 1490, from his tenement in Haddington on the north side of the High Street	0	10	0
Item granted by George, Lord Seton, 1491, from his tenement within the burgh	0	6	8
Item endowment of £11, 12s. 8d. granted by Walter Bertram, Provost of Edinburgh, 1494, for support of a secular chaplain at the altar of St. Clement within the friary church, of which sum the friars received for their own uses	0	10	0

Item granted by Robert Greenlaw, 1495, from his tenement, probably implying a suppression of his previous grant of ten shillings in 1490 from the same tenement . . £1 0 0

Item granted by John Forton, 1499, from his tenement in the High Street 0 8 0

Item purchased by the friars, at a price now unknown, from John Lethane, *circa* 1505, two annual rents of forty shillings and two merks from two tenements on the north side of Market Street 3 6 8

Item granted by a donor, now unknown, over a tenement in Calparis Gate and vindicated by the friars from Sir John Croser in an action brought by him against them in 1509 . . . . . 0 12 0

Item assigned by Robert Galloway, 1512, reversion of annual rents, two merks over a tenement on the east side of the Hardgate, three merks over one on the north side of Market Street, two merks over one on the north side of King Street, and six shillings over William Cok's land on the south side of the Poldrait; sasine granted by debtor 12th November 1513; date of redemption now unknown 4 19 4

Item granted by the family of Sibbaldson, 1514, over their tenement on the south side of West Street . . 0 6 8

Item granted by Margaret Kennite, 1516, over a tenement on the south side of the High Street . . . 0 7 6

Item granted by John Haliburton, carpenter, 1535, over his tenement on the north side of the High Street; poinded for arrears 9th October 1554,—April and 8th October 1555; process discharged after payment, 12th November 1555 . . . . . 1 0 0

Item granted by some donor, now unknown, over the house known as Greenlaw's Tower on the south side of Market Street and redeemed from the friars by one Philip Gibson, 1543, by a payment of sixteen pounds . . 1 4 0

Item granted by the foresaid Philip Gibson, 1543, over one of his tenements on the west side of the Sydgait . 0 10 0

Item purchased from John Haichtwe, 1550, annual rent over a tenement on the east side of the Tolbooth . . 0 13 4

SUMMARY II

ANNUAL RENTS of which the title deeds have disappeared, their existence being disclosed from legal proceedings instituted in the Burgh Court, 1530–59, to recover payment. (*MS. Burgh Court Books*, under dates of poinding.)

Annual rent secured over the Well Tower in Strumpet Street; poinded 11th October 1530 . . . . £0 10 0

Item over William Clepane's tenement in the Hardgate, bounded on the north by the lands of Alexander Cockburn of Harperdean, on the south by the land of James Horne and on the east by the common causeway; poinded 9th October 1554,—April and 8th October 1555 £2 0 0

Item over John Thomson's land there, bounded on the north by the lands of the deceased Robert Norre, on the south by the lands of the deceased James Heweson and on the east by the common causeway; poinded 9th October 1554,—April and 8th October 1555 . . . 1 6 8

Item over Thomas Simson's land in the Poldrait, bounded on the west by the lands of the deceased William Cok, by the lands of the deceased Alexander Brown on the east and the mill dam on the south; poinded 9th October 1554,—April and 8th October 1555 . . 0 6 8

Item over David Bell's land on the south side of the burgh, bounded east and north by the land of Alexander Todrig and the common causeway, on the west by the land of Sebastian Dun and on the south by the mill dam; poinded 9th October 1554,—April and 8th October 1555; process discharged 12th November 1555. 1 4 0

Item over Alexander Gibson's land in the Smedye Raw, bounded east and south by the lands of Alexander Barnis and the common causeway; poinded 9th October 1554,—April and 8th October 1555; process discharged 12th November 1555 . . . . . 1 8 0

Item over Adam Wilson's land—originally Robert Wilson's land—on the north side of King's Street, on the east by Lord Hume's land, on the west by the land of the deceased John Eistoun, and on the south by the common street; poinded 9th October 1554, 8th October 1555; process discharged 12th November 1555 . . 0 8 0

Item over John Hynd's land, bounded on the north by John Getgude's land, on the west by Andrew Wilson's land, and on the east and south by the common causeway; poinded 9th October 1554,—April and 8th October 1555 1 5 0

Item annual of unknown value over Patrick Sharp's land on the south side of the Crocegait, bounded on the east by Master Barthelmo Kello's land, on the west by the deceased Alexander Todrig's land, on the south by the mill burn, and on the north by the common causeway; poinded 9th October 1554,—April and 8th October 1555 0 0 0

Item over the half of a half of two contiguous tenements bounded on the north by Robert Norre's land, and on the south by James Heweson's land; composition 16th October 1555 . . . . . 0 10 0

Item over a tenement in the Smedye Raw, bounded on the

east by Cuthbert Simson's land, and on the south, west and north by the common gate and passage; process discharged 19th November 1555; repoinded 4th May 1557	£0	6	8
Item over William Robertson's land on the north side of the burgh, bounded on the east by George Simson's land, and on the west by the land of the deceased William Robertson; poinded 26th January 1556–57 . .	0	13	4
Item over Patrick Douglas' land in the Smedye Raw, bounded on the south, north and west by the "Quheni's Hyegait"; poinded 26th January 1556–57 and 12th October 1557 .	0	6	8
Item over Adam Cockburn's land; poinded 11th April 1559	0	0	0
Item over a tenement on the north side of the burgh, bounded on the west by the heirs of John Richardson; poinded 27th April 1558	0	13	4
Item over Henry Thomson's land on the east side of Grypwell, bounded on the east by the water of Tyne and John Blair's land on the north; poinded 22nd January 1565–66, 30th April and 8th October 1566 . .	0	6	8
Item over the land of Edward Vaus on the east side of the burgh, bounded on the east by Robert Schort's land, and on the west by the East Port; poinded 22nd January 1565–66	0	8	0
Item over the deceased Robert Young's land on the east side of the Sidegate, bounded on the north by the deceased Marion Clerk's land, and on the south by the deceased John Hume's land; poinded 22nd January 1565–66 .	1	0	0
Item over Thomas Simson's land on the south side of the Poldrait, bounded on the west by Robert Maitland's lands and on the east by James Tuedy's land; poinded 22nd January 1565–66	1	6	8
Item over James Cockburn's tenement . . .	3	0	0
Item over the tenement of James Hamilton of St. John's Chapel on the north side of the Tolbooth Gate .	1	0	0
21st January 1555 Warden John Congilton protested (in the Burgh Court) "that the process led upoun ane tenement of land of umquhile Adam Adesone and of the tenement of land of George Reclington and the tenement of umquhile Alexander Todrig (and of the tenement of land of Edward Wawse without the port of the said burght) be nocht prejudiciall nor hurt to him nor his abbay and convent thairof." It is to be presumed there were annual rents constituted over these tenements in favour of the friary	0	0	0
Total annual value of the rents owned by the friary, exclusive of five annuals of which the value is unknown, and of £1, 4s. over Greenlaw's Tower, redeemed by Philip Gibson in 1543 .	£48	9	4

ROYAL BOUNTIES TO THE GREY FRIARS OF HADDINGTON

I. Exchequer Rolls

Payments, in whole or part, of the annual allowance of 20 merks granted under a charter by Robert Bruce in 1329 appear in the Rolls as follows:—13th August 1362, £6, 13s. 4d.; 21st January 1365, £13, 6s. 8d.; 15th September 1456, £26, 13s. 4d.; 3rd July 1471, £13, 6s. 8d.; 14th August 1501, £93, 6s. 8d.

Payments of £1 out of the burgh fermes by the Bailies of Haddington to the Warden of the Grey Friary, on behalf of the Master of the Hospital of Saint Lawrence near the burgh, appear in the Rolls of 23rd July 1530, 21st July 1531, 3rd August 1535, 7th August 1537, and annually thereafter until that of 17th March 1544.

Incidental royal charities to the friars are recorded 21st January 1365, 54s. by the gift of the King; 1st July 1460, £3, 6s. 8d. for the maintenance of the fabric of the place; 21st October 1490, three bolls of wheat in alms for this year only.

II. Treasurer's Accounts

1497, 16th day of August to the Freris of Hadingtoune be the Kingis command, 18s.

1507, 18th day of November in Hadingtoun for the Kingis belcher in the Freris, 42s.

1508, 15th day of June to the Freris of Hadingtown, 14s.

LEGACIES

Sir James Douglas of Dalkeith, ancestor of the Earls of Morton, under his two wills dated 30th September 1390 and 19th December 1392: *Item fratribus minoribus de Hadyngtoun tres libras, sex solidos et octo denarios.* (*Bann. Club. Miscell.*, II. 109, 117.)

Bequest in Testament, confirmed 3rd April 1516, of Dame Catrine Lauder, spouse of John Swynton of that Ilk, to the Friars Minor of the town of Haddington, £10. (*MS. Cal. of the Swynton Charters*, No. 80, and original in G. R. H.[1])

[1] Captain Swynton of Swynton has recently deposited his family muniments in the G. R. H. for preservation.

CHAPTER VIII—(*continued*)

CONVENTUAL FRIARIES

Dumfries

The fourth and leading Franciscan settlement in the south of Scotland was established at Dumfries about the year 1262, upon the gentle slope of the left bank of the Nith to the north of the old burgh and overlooking the future site of the Newton of Dumfries. At this date, the friary was appropriately situated beyond the northern limits of the burgh and at some little distance from it, on the south-east corner of the "Willeis" or Burgh Common, which was reached by a track or lane continuing the High Street north-westwards from the point where it joined the Friars Vennel. In the sixteenth-century writs, this lane is called the Staitfurd, "passing oute to Poliwadum" through the Common. It skirted the base of the present Burns Statue and formed the east boundary of the friary graveyard, orchard and new yards, three parallel strips of land from south to north. The line of this track has long since been obliterated, and the recent discovery of human remains in the cellars under Castle Street shows that the boundaries of the friary cemetery soon faded from the memory of the burghers.[1] On the north, the friary land was bounded by the Common,[2] now covered by the buildings on both sides of Buccleuch Street; and the western boundary is described as the shingle or water of Nith.[3] It was then represented by marshy land, long since reclaimed and now

[1] *MS. Abbrev. Feu Charter*, 15th September 1555, *infra*, II. p. 104. Excavations described by Mr. James Lennox in *Transactions of Dumfries and Galloway Natural History and Antiquarian Society*, XVII. pt. 3, p. 255.

[2] *Ibid.*

[3] *MS. Feu Charter*, 14th June 1558, *infra*, II. p. 113.

covered by Bridge Street in so far as it extends between the old and the new bridges. On the south, the boundary can still be traced in the line of the Friars Vennel. In the sixteenth century, the front garden of the friary occupied fifty-six ells[1] Scots of the north side of this Vennel, extending westwards from two tenements at the "Vennelheid"[2] to a passage or close which divided the friary from the tenements of the Newton, then in course of erection, on the north side of the west end of the Vennel.[3] In 1560, this garden was not built upon, and its depth from the Vennel to the south wall of the church varied from eleven to nineteen ells. It was divided into the east and west gardens —having a frontage of twenty-six and twenty-eight ells respectively—by a passage which led from the Vennel to the main entrance of the church, immediately outside the choir. The whole area was, therefore, roughly triangular in shape with a curved apex; and, from the measurements contained in the pre-Reformation writs, it comprised nearly eight and a half acres of ground, excluding the two tenements at the "Vennelheid" and the line of tenements, known as the Newton of Dumfries, erected south-west of the friary towards the head of the Old Bridge after the departure of the English in 1549.[4] It is now impossible to offer any satisfactory explanation why this narrow strip of land, so long unoccupied, did not pass into the possession of the friars along with the "Freirheuch," of which it was the southern boundary.

The original extent of the friary glebe was, however, much more restricted, and was enclosed by the customary "papal walls"[5] which are generally referred to as being sanctioned by "our Holy Father the Pope."[6] They started from the western end of the front garden, ran northwards past the

[1] *i.e.* fifty-four ells plus the width of the passage through the garden from the Vennel to the church.

[2] *MS. Abb. Feu Charter*, 8th July 1559, *infra*, II. p. 115.

[3] *MS. Abb. Feu Charters*, 10th and 14th June 1558, *infra*, II. pp. 111, 113. The charter of 10th June describes the house on the west side of this close as "newly built."

[4] *MS. Abb. Feu Charter*, 10th June 1558, *infra*, II. p. 111.

[5] *Ibid.*

[6] *e.g.* Dundee, *infra*, II. p. 144.

west end of the church and the refectory to the north-west corner of the orchard, and thence turned eastwards as the dividing line between the Newyards on the north and the "grite" yard and orchard on the south, until the line of the Staitfurd was reached. In the course of natural expansion, these Newyards of nine roods were acquired from some unknown donor, and the northern boundary was continued along the edge of the Common down to the shingle when the Friarhaugh of three and a half acres was similarly acquired. This grazing ground lay between the shingle and the old papal walls, being bounded on the north by the Common and the Newton on the south.[1]

The church was oriented and stood on the lower slope of the hill, within the papal walls;[2] but of its altars and architectural style nothing is now known beyond the fact, that the choir screen divided the church immediately east of the south door, that the aisle of St. John the Baptist touched the west lintel of that door, and that the altars of St. Salvator and the Blessed Virgin flanked the south wall of the nave. The cloister, refectory and other inhabited buildings were situated behind the north wall of the church at its western end, and were reached by a flight of steps leading up to our great chamber "from the passage on the east side of the tenement of David M'Ghee, newly built."[3] Immediately to the east of the church, and partly to the north of it, lay the graveyard. On its north side was the orchard with the great yard adjoining the cloister, and to the west of them were the friary buildings which are described as overlooking the Haugh.

Tradition, through the pen of Thomas Dempster,[4] attri-

[1] *MS. Feu Charter*, 14th June 1558, *infra*, II. p. 113.

[2] *MS. Abbrev. Feu Charters*, 10th June 1558 and 8th July 1559, *infra*, II. pp. 111, 115.

[3] *MS. Feu Charter*, 10th June 1558, *infra*, II. p. 111. From these contemporary descriptions, it is clear that "the massive gable wall containing a great fireplace believed to belong to the friary kitchen"—which remained intact in a house on the north side of the Vennel—could not have formed part of the friary buildings. These stood behind the church, and as the foregarden occupied the whole ground from the Vennelheid westwards to the passage above mentioned, none of the friary buildings abutted on the Vennel.

[4] His further statement that Duns Scotus, surnamed the Subtile Doctor, took the Franciscan habit in this friary, is not supported by any evidence.

butes this foundation in 1262 to that typical benefactress of her time, the pious Lady Devorgilla of Galloway;[1] and this would appear to be one of the rare instances in which some degree of confidence may be reposed in this writer. The surviving fragment of the Exchequer Rolls for the years 1264–66[2] testifies that the friars were then settled in the burgh, and that they were in receipt of an annual allowance of four pounds from the Crown; while the meagre evidence now at our command points to the fact that the friary and the construction of the old stone bridge over the Nith formed parts of the same building plan undertaken by Lady Devorgilla. By the time of the Douglases, the bridge was recognised as a distinguishing pertinent of the Lordship of Galloway, which was held from the Crown in return for the payment "of a red rose on the bridge of Dumfries in name of blench duty";[3] and, having regard to the situation of the old burgh at this date, the site selected for the bridge is anomalous, unless it be considered in relation to the friary and the convergence of the old military roads from the west and south-west. From the Dumfries head of the bridge, the road continued in a straight line up the Friars Vennel; and, as the bridge toll was intended for their support, the friars could thus collect the dues at their own door from the passing travellers.[4] At the same time, no inconsistency is introduced by the fact that the earliest extant record of this unique grant dates from the year 1426, because the charters of confirmation granted by the successive holders of the lordship were couched in identical terms of present gift, and differed from one another only in the divine services required of the

[1] *Apparatus ad Hist. Scot.*, p. 83. Neither Wyntoun nor Fordun refer to Devorgilla as the foundress.

[2] It was in existence in the Castle of Edinburgh in the seventeenth century when it was copied by Lord Haddington. It was the only fragment of these records that Edward I. failed to carry off.

[3] *MS. Reg. Mag. Sig.*, IV. Nos. 110, 218, 255; and VII. No. 36.

[4] The Sandbed Mill at the Dumfries end of the bridge did not belong to the friary, but to the Vicar of the parish church. The placing of a culvert in one of the arches of the bridge points to the existence of the mill at a date anterior to the erection of the bridge. Cf. notes by Mr. James Barbour, *Dumf. and Gall. Nat. Hist. and Antiq. Soc.*, 1887, pp. 58–65, and also *Instrument of Sasine* in favour of Lord Herries, 10th November 1589, proceeding on resignation by the last Vicar of Dumfries; original in Burgh Charter Chest.

Charter by the Duchess Margaret, Countess of Douglas, in favour of the Grey Friars of Dumfries, confirming their Right to Bridge Tolls. Dated 16th January 1425–26.

friars in return for this munificent charity. Accordingly, Princess Margaret, widow of Archibald Douglas, the hero of Verneuil and victim of divided council in face of the enemy, as liferentrix of the Lordship of Galloway under a grant by her brother James I., stipulated in her charter of 16th January 1425–26 that the friars should perform masses for the souls of her late husband, her son and her brother; whereas, that of James, ninth Earl and last direct descendant of the good Lord James, provided that the friars should celebrate divine service for his father and for his brother, who had been murdered by James II. and his courtiers in the preceding year.[1]

The early history of the friary is limited to one of those stories which illustrate the profound belief of our remote ancestors in the punishment inflicted on unconfessed sin. Two friars from Dumfries, when journeying through Annandale for the purpose of preaching in the various centres, were met, on Christmas Day 1281, by a woman who had travelled five miles through the night to seek a priest for her unhappy companion lying grievously sick in a barn. When in charge of his rector's manse, this sinner had stolen twenty shillings, and, after demitting his charge, had received absolution from his father-confessor by deceiving him with fictitious protestations of penitence. As just punishment for concealing this theft in his confession, two satellites of Satan appeared before him on Christmas Eve, prepared a fire, and set a cauldron of water to boil. Thereafter they dragged the unfaithful servant from his bed, dipped him in the boiling water, and then hung him from a beam, where they tore him with their nails, chanting, "This wilt thou have for twenty shillings."[2]

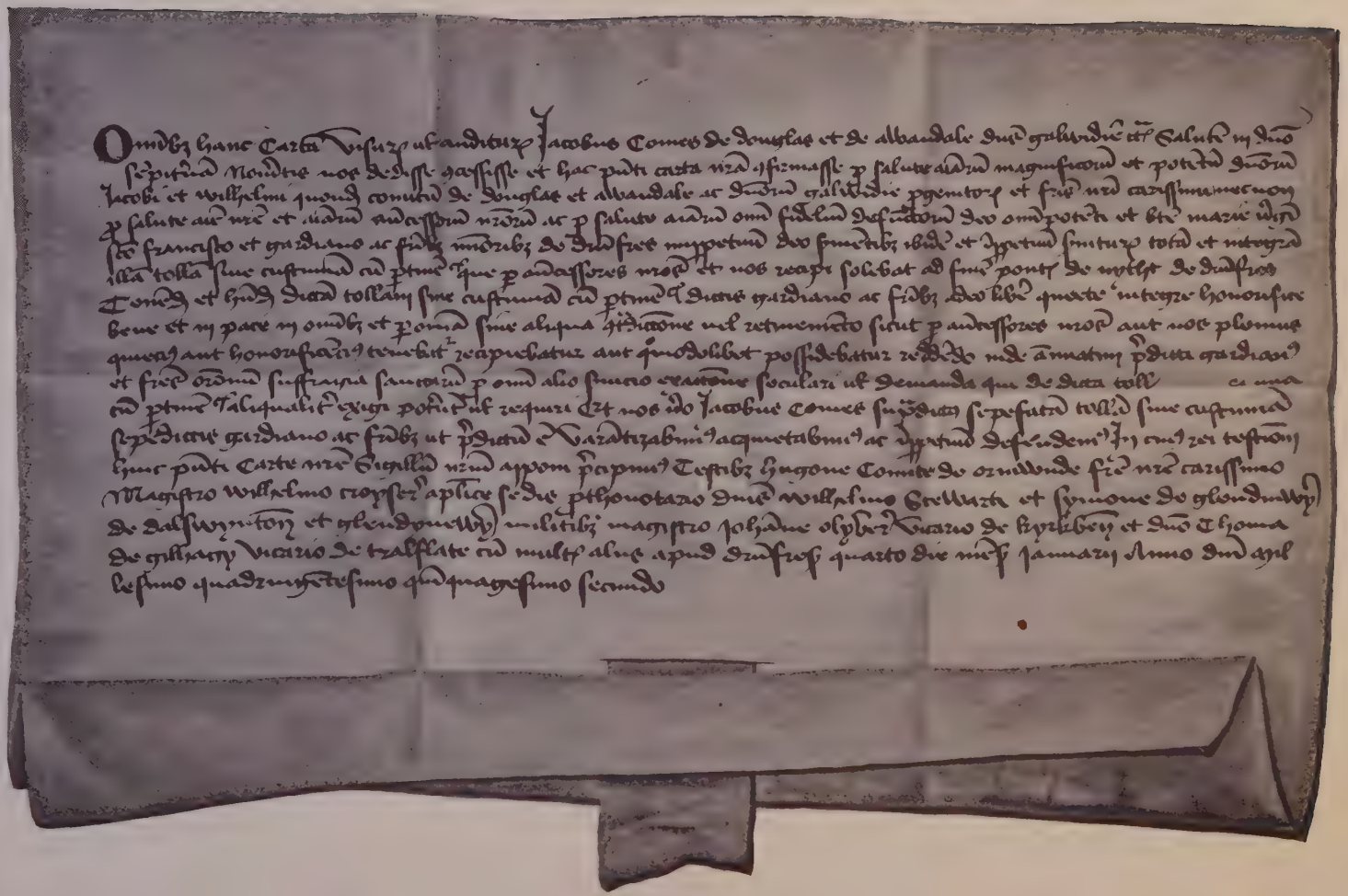
The friary next appears as one of the petitioners to Edward I. for the continuation of the alms of the Scottish kings; and we learn that the annual allowance from the Exchequer had been increased to a weekly dole of three shillings, supplemented by a pipe of wine and seventeen stones of wax annually.[3] Their petition was favourably

[1] *MS. Charters*, originals in Burgh Charter Chest, *infra*, II. pp. 101–103.
[2] *Lanercost Chronicle*, pp. 107–8.
[3] *Hist. Doc. Scot.* (Stevenson), II. 246: *Rot. Scot.*, I. 38.

received, and in 1300 Edward I. lodged twice in the friary during his campaign against Caerlaverock.[1] On these occasions, in addition to two oblations of seven shillings each, Friar William of Annan received from their guest a small payment for his accommodation; and later in the year—on All Saints' Day—Prince Edward placed an oblation of six shillings on the altar after the celebration of mass. Five years later, the murder of the Red Comyn and his uncle in the cloister and church illustrates the freedom of resort to the friary, and identifies the foundation of Devorgilla with this romantic episode in the fortunes of Scottish independence. There may be the elements of historical truth in the narrative of the kindly services rendered by the friars to the expiring Comyn; but the main interest of this sacrilege for Franciscan history lies in the remorse of the Bruce. Deeply permeated by the religious piety of his time, after his government had been firmly established by the Treaty of Northampton, he increased the existing royal charities to the Franciscans to an annuity of 120 merks, to be divided in equal shares among the six friaries. To Dumfries, however, he granted an additional annuity of twenty merks payable out of the Castle Wards of Roxburgh. The first-mentioned annuity was paid by the bailies directly out of the royal fermes within the burgh, and the annual receipts of the Wardens illustrate the surprising regularity of the payment of the "alms of King Robert I." Even in 1384–85, when the town was burned by the English and the royal taxes were unpaid, the friars received the full amount of their annuity, while that of the preceding year had only been restricted to £10, 15s. on account of the devastation wrought by the invaders. They were less fortunate during the rude wooing of Mary Stuart and the tergiversations of the assured Scots; and, with the exception of a trifling legacy of £5 from Gavin Dunbar, Archbishop of Glasgow,[2] the year 1548 may be accepted as the low-water mark of Franciscan prosperity in the burgh. The second of Bruce's benefactions was a more fitful source of revenue, and sorely

[1] *Supra*, p. 22.

[2] *MS. Reg. Confirmed Testaments* (Glasgow), f. 21[5]a.



Charter by the Earl of Douglas, confirming the Grey Friars of Dumfries in their Right to the Bridge Tolls. Dated 4th January 1452–53.

taxed the submissive spirit which the brethren ought to have exhibited towards their flock. Shortly after his death, the Castle of Roxburgh and the surrounding country fell into the hands of the English; so that until 1460 there were but rare occasions on which this welcome addition to the friary revenues was received. Even then, however, the friars were not permitted to enjoy the advantages resulting from the capture and destruction of the castle. For six years the Sheriff remained deaf to their requests for payment, with the result that his too confiding creditors followed the example of the friars of Haddington and Dundee in appealing directly to the Lords Auditors for payment of arrears as well as a recognition of their rights so long held in abeyance.[1] During the minority of James V., the Sheriff of Roxburgh, in the person of Sir James Douglas of Cavers, again turned defaulter, and he also was summoned to appear before the Lords, in respect of his failure to distribute the royal alms that he entered annually in his accounts and "tuke allowance thairof." At the same time, the utmost rigour of legal process was brought into play, and Douglas found himself threatened with the "pane of rebellioun and failzeing thairof to put him to the horne." When the parties appeared by their procurators in the suit at Edinburgh on 6th September 1531, Sir James pleaded, in excuse, the deforcement of his officers and the refusal of the unruly borderers to pay their taxes; and he further contended that his *nobile officium* was a bar to any action against him. The friars consented to delay, and the "Lordis of Counsale, with consent of the saidis procuratoris, supersedis all processes of the horne led or to be led upon the said Schiref of Roxburgh unto Sanct day next to cum, and gef he be put to the horne, ordanis ane maser to pass and relax him from the said process, and ressave him to our Soverane Lordis pece, and deliver him the wand thairof in hoip that the said Schiref mak payment to the saidis freris in the meynetyme."[2] This pious injunction impressed the rapacious Sheriff only so long as the humble litigant could appeal to James V. for justice; and he welcomed the acces-

[1] *Acta Auditorum* (Print), p. 5.
[2] *MS. Acta Dom. Concil.*, XLIII. f. 45.

sion of the infant Queen by withholding payment for a further period of twelve years. In 1554, he was once more summoned before the Lords at the instance of the Chapter; and, after admitting his defalcations towards the friars and the Exchequer, he entered into an agreement at Edinburgh on 19th September with Warden Charles Home, whereby the Chapter restricted its claim to one-half of the 240 merks, in return for his obligation to surrender the balance in certain stipulated instalments.[1] This somewhat elusive pension followed the fate of other royal endowments in 1560 when it reverted to the Exchequer;[2] but, on 21st March 1582, under the designation of "the ancient alms of King Robert the Bruce from the Castlewards of Roxburgh," it was revived under a letter of gift by James VI. to provide a pension for Friar Charles Home, the last Warden of the friary—"in consideratioun of the said Charles being of grit age and willing to support him in his miserabill and aigit dayis, gaif and disponit to him the foirsaid sowme of twentie merkis of the Castell Wairdis foirsaidis during his lyif-tyme, as alsua of all yeiris restand awand quhairof compt wes nocht maid in Chekker."[3] This pension was confirmed at the King's majority, and the aged Warden continued to receive payment until his death, in 1588, removed the last survivor of the Franciscans in Scotland of whom any record survives.[4]

Another permanent right of not inconsiderable value to the friars was that of salmon-fishing in the Nith, "between the waters of the Laird of Lag and Glenga water,"[5] which they received from one of the Scottish kings prior to the reign of Robert III. It is interesting to note that these fishings were expressly reserved in the charter of the Nith fishings granted to the burgh in 1395;[6] and in later days the right to furnish

[1] *MS. Reg. Acts and Decreets*, VIII. f. 613; *infra*, II. p. 123. The Deed of Agreement was registered for preservation and *execution*—an early example of this method of summary diligence.

[2] *MS. Accounts of the Collector-General*, Charge, 1561–62.

[3] *MS. Reg. Privy Seal*, LIV. f. 43, *infra*, II. p. 122.

[4] *Exchequer Rolls*, XXII. 68.

[5] *MS. Abb. Feu Charter*, 1st June 1558, *infra*, II. p. 107.

[6] *Copy Charter*, Burgh Charter Chest; *MS. Reg. Mag. Sig.*, V. No. 23. "... *piscaria tamen data et concessa per predecessores regis fratribus ejusdem loci, divinae caritatis intuitu, dumtaxat excepta.*"

this adjunct to their table was leased to a series of tenants in return for an annual payment of five pounds Scots.[1] The brethren dealt similarly with their bridge toll, and secured themselves against the recurring variations in income by leasing their right to a burgess of Dumfries for ten merks per annum. As owners of the bridge, it may be presumed that the Earls of Douglas provided for its upkeep; but, after their fall in 1458, the friars were either unable or unwilling to maintain the now aged structure. During the visit of James II. to Dumfries in 1455, if not in commemoration of the fall of Thrieve Castle, a master of works was appointed by him at a salary of £6, 13s. 4d., "to be known as the alms of the King, to continue during his pleasure." The first *magister fabricae pontis de Nith* was the Vicar of Kirkbene, and he was succeeded in 1460 by one Master John Oliver, another churchman, to whom payments of £3, 6s. 8d., £11, 5s. 10d. and £6, 13s. 4d., were made for bridge repairs until the year 1465, as alms in memory of the late King.[2] Thereafter, the Exchequer appears to have discontinued the grant; and it was this question of upkeep that indirectly compelled the Chapter to lease or feu the right of toll. In the same year (1465), they received a payment of forty shillings for the lodging of Sir John Carlyle of Torthorwald, while acting as Justiciar for the Regent Albany in the district; and at some unknown date during the latter part of this century, they became possessed of an annual rent of thirteen shillings which ultimately embroiled them in fresh litigation, on this occasion, with William Maxwell of Cruvestanes. For nine years Maxwell withheld payment of this trifling sum "pertening to the friars be reason of ald gift in almous"; but the record affords no information beyond the fact that the cause was continued for proof from 23rd April to 13th May 1513.[3] In the same year, the rôles of plaintiff and defendant were reversed in another lawsuit which Maxwell raised against Friar Andrew Fife, Warden of Dumfries, one of the procurators for one Elizabeth

[1] *MS. Abb. Feu Charter*, 1st June 1558, *infra*, II. p. 107.
[2] *Exchequer Rolls*, VI. 138, 311, 400, 503, 601; VII. 39, 298, 372, 548.
[3] *MS. Acta Dom. Concil.*, XXV. f. 28.

Bruce who had recently been served heir to John Bruce in a tenement within the burgh. All the parties to this Inquest were cited to appear at Edinburgh; and, although the Warden is referred to as one of "the alleged procurators and attorneys to her," it seems clear that his position was merely one of trust under the will of the deceased John Bruce. He appeared in the suit through his own procurator, John Williamson,[1] to maintain the validity of the recent infeftment of Elizabeth Bruce in her ancestor's heritage.

As in the case of most of the Scottish friaries, the reign of James IV. is marked by many acts of royal charity. In 1501, Lord Crichton of Sanquhar, Sheriff of Dumfries, handed over a sum of £10 as the King's alms for the reparation of the friary,[2] and from 1503 until 1512 numerous donations of fourteen shillings and upwards were received from the privy purse.[3] That of 5th March 1504, described as "the Kingis offerand on the bred in the Freris of Dumfries" indicates the attendance of the King at mass within the friary; and £20, 6s. 8d., out of his general donation to the Franciscans for vestments in 1506, were expended in renewing "ane caip, tua tunycales and ane cheseb," three albs and three belts for the friars of Dumfries. In 1520, they received from John Logan, Vicar of Knowen, the second of the two ground annuals, now definitely traceable to their possession.[4] In return for this annual payment of five merks from a tenement at the "Vennelheid,"[5] they undertook to celebrate two masses annually for his soul at their altar of Saint Salvator, "within the church beside the altar of the Blessed Virgin without the choir." Ten years later, a further donation of £10 from the privy purse is to be noted,[6] and in 1535 the friary church was the scene of a solemn protest made by John Turner, Rector of Annan and Official of the district, on behalf of the Arch-

[1] *MS. Acta Dom. Concil.*, XXV. f. 139, 28th May 1513.

[2] *Exch. Rolls*, 1st July 1501. [3] Summary, *infra*, pp. 215–16.

[4] *Charter of Mortification*, 1st March 1519–20; *MS. Reg. Mag. Sig.*, XXVI. No. 34, *infra*, II. p. 103.

[5] This tenement was one of the two which were erected upon the eastern end of the front garden, and looked out upon the High Street. They were occupied by Christopher Lawrie and Andrew Mathieson.

[6] *Treasurer's Accounts*, 19th August 1530.

bishop of Glasgow, against the Archbishop of St. Andrews, who had given benediction to the burghers of Dumfries and had caused his cross to be publicly carried within the town during his visitation. The haughty primate severely rebuked the rector, who retired to the friary in company with the parish vicar at nine o'clock on the morning of 22nd November, and there, in the presence of the dignitaries of the diocese and the Justice-General of Scotland, recorded his dissent from this invasion of the See.[1] The Franciscan confessor of James V., it will be remembered, favoured the supremacy of St. Andrews.

With the accession of Mary Stuart the friary fell upon evil days. The annuity of forty merks ceased to be paid; and, as the English occupation suspended all agricultural work in the district, the various tenants of the friars doubtless argued dispossession as an excuse for non-payment. In 1548 the seven friars were reduced to destitution. Their demesne, wrote Lord Wharton's son, was their sole means of support, and it only sufficed for three of them; while he disparagingly referred to the Friarhaugh and yards as a "little land," and purposed the erection of a fort overlooking the Nith, in the construction of which the conventual buildings and Lord Maxwell's house were to furnish a sufficient store of building material. The Warden and two of his friars were summoned to Carlisle to surrender the friary, and it seems clear that they accepted the English domination and abjured Roman Catholicism in the autumn of 1547. The rest of the Chapter followed their example at the Tolbooth of Dumfries on the 8th of November following, and the English agents exulted in their perfect submission and fidelity to the reformed doctrine. The nature of this oath must, however, be considered purely in relation to border politics. The following spring witnessed the discomfiture of the English, and, whatever rôle the individual friars may have played in this *volte face*, their Warden, who had been detained as one of the hostages at Carlisle for the town of Dumfries, was led to the halter on 17th March 1549 in expiation of Durrisdeer.[2]

[1] *Reg. Episc. Glasguen.*, II. 553.

[2] *Cal. S. P. Elizabeth*, 1601–3; Add. 1547–65, pp. 333–72

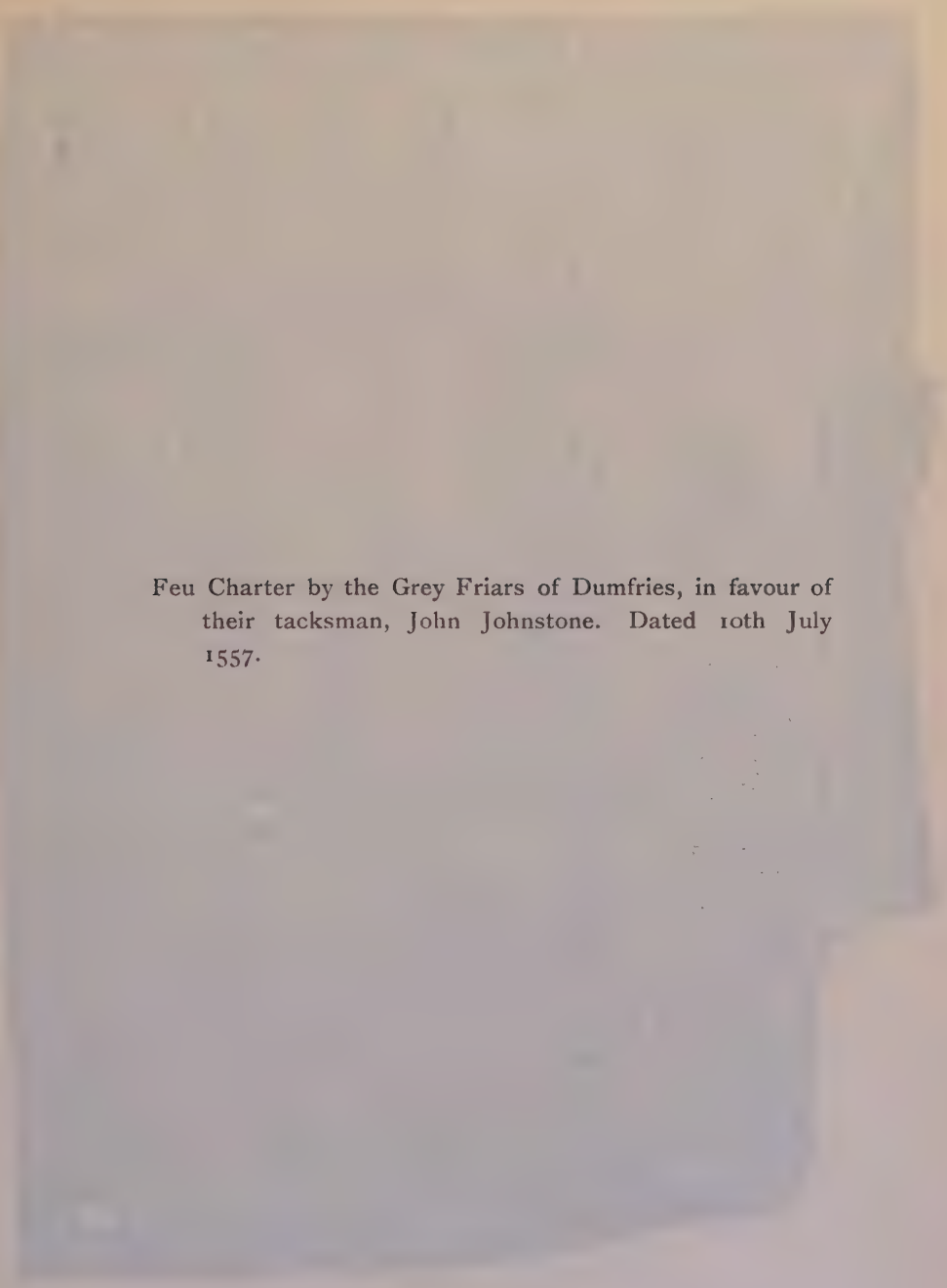
Thus failed the "godly purpose of marriage"; and, with the restoration of peace under the Treaty of Boulogne, we find the friars once more in occupation of their old home during the decade that preceded the Reformation.

Many years had now passed since the Conventuals had been authorised by the Holy See to sell or feu their lands "for the evident utility of their houses"; and it was doubtless the experience acquired during the English occupation that induced the friars of Dumfries to initiate the custom among the Scottish Conventuals of relinquishing actual possession of their lands, and of acquiring in return an indefeasible right in them as feudal superiors. Lord Maxwell, in return for an immediate payment of twenty merks and of an annual feu-duty of four merks, acquired two and a half roods "of the east part of their yard lying contigue to the said Lord Maxwell's place."[1] The much debated situation of this house is now a matter of small importance; but it may serve some useful purpose to observe that it did not occupy the site of the friary, and that from the above description it could only have lain immediately north-east of the friary yards. When due allowance is made for the encroachments upon the friary boundaries after 1560, this location is not inconsistent with the statement that it stood at the head of the "King's Hie Street" in 1570, as streets were built across the Common, and the present Greyfriars Church approximately represents a site at the head of the High Street contiguous to the friary. Four years later, on 15th September, the current lease of the Newyards, or north part of the glebe adjoining the Common, was converted into a feudal holding in favour of John Birkmyre at an annual duty of thirty shillings.[2] The lease of the bridge toll was similarly dealt with on 10th July 1557, when a charter was granted to the then tacksman, John Johnston, at an annual augmentation of three shillings and fourpence beyond the old rent of ten merks.[3] During the next year the process of divestiture con-

[1] *MS. Obligation*, 24th June 1551, *infra*, II. p. 104.

[2] *MS. Abb. Feu Charter*, signed in the Provincial Chapter at Inverkeithing by the Provincial and five Wardens, *infra*, II. p. 105.

[3] *MS. Feu Charter*, *infra*, II. p. 106.



Feu Charter by the Grey Friars of Dumfries, in favour of their tacksman, John Johnstone. Dated 10th July 1557.

tinued apace, in view of the imminent change in Church and State which so many professed to foresee. John MacBrair secured the conversion of his limited right in the friary salmon fishings into a feudal holding, at an augmentation of one pound beyond the five formerly paid by him.[1] For the better cultivation of the land and the increase of the friary rental, John Richardson and his wife obtained a charter to the west portion of the front garden, having a depth of nineteen ells to the church and a frontage of twenty-eight ells to the Vennel.[2] The eastern portion of the garden, measuring eleven by twenty-six ells, was acquired by John Marshall, who received a title in the same charter to another acre of friary land situated in the parish of Troqueer, on the other side of the Nith;[3] but it is now impossible to ascertain the total extent of these disjoined lands which were of considerable dimensions and in part, at least, embraced the eastern side of Corbelly Hill. Other tenants of these friary lands were William Thomson, John MacGowan, John Tod, William Marshall, Patrick Kirkmyre, Robert Haliday and Isabelle Asslowand;[4] and, as late as 16th March 1652, a notice of "five roods of land lying at the Corbellie Hill, within the Parish of Troqueer of auld perteining to the Freir Minoris of Dumfries" appears in a Deed of Reversion engaging a "crown of gold" as their value.[5] After the Reformation no further trace of these lands can be discovered, and an examination of the friary rentals may perhaps warrant the deduction that the friars received rents from the tenants and feuars to the amount of ten pounds. Returning to the composite glebe within the burgh of Dumfries, we find that John Richardson became the feuar of ten out of the fourteen roods constituting the Friarhaugh, at an augmentation of two shillings and sixpence upon his former rent of sixteen shillings per acre.[6] The remaining acre adjacent to the Common was acquired

[1] *MS. Abb. Feu Charter*, 1st June 1558, *infra*, II. p. 107.
[2] *MS. Feu Charter*, 10th June 1558, feu-duty, 6s. 8d., *infra*, II. p. 109.
[3] *MS. Feu Charter*, 8th July 1559, feu-duty, £1, 0s. 8d., *infra*, II. p. 114.
[4] *MS. Feu Charter*, 26th March 1558; Excerpt, *infra*, II. p. 109.
[5] *MS. Particular Reg. of Sasines*, Dumfries, G. R. H. Recorded 16th March 1652.
[6] *MS. Feu Charter*, 14th June 1558, *infra*, II. p. 112.

by John Cunningham, and thus in 1560 the friars remained in possession of the restricted area comprised within the old papal walls, under the exception of their front garden. The son of their last-named vassal forfeited his father's feu in 1576, when he was put to the horn for the slaughter of Thomas MacBrair, a member of Provost Archibald MacBrair's family.[1]

In this manner we are enabled to account for £24, 8s. 8d. of the fixed annual income enjoyed by the friars from their lands and annual rents; and, after Franciscanism had been peacefully abolished from the burgh, the Collector-General of the Thirds of Benefices entered the sum of £33, 11s. 10d. as the annual proceeds of the friary properties,[2] distinct from the two annuities granted by the Bruce and now "assumed and tane" by the Comptroller of Exchequer. Along with Warden Charles Home, Friars Herbert Stewart and George Law, accepted the new régime, and returned to citizen life in the enjoyment of the customary Mendicant pension;[3] but their example was not followed by Friars Christopher Walker and Richard Harlaw, who appear as members of the Chapter in 1557.[4] There is little doubt that the recanting brethren did not abandon all interest in their whilom revenues, which ultimately expanded beyond the figures returned by the Collector, and offer a financial puzzle almost as difficult of solution as that presented by the dealings of Warden Auchinleck of Haddington. The feuars naturally hastened to complete the validity of their recent titles by securing confirmation from the Crown in return for the composition required by the Act.[5] The various infeftments were thus gradually brought to light, and the feu-duties secured; but, with the exception of the church and contiguous yards, there was no land on the east side of the river for the magistrates to seize in virtue of their Crown Charter of the ecclesiastical properties

[1] *MS. Privy Seal*, 7th May 1576. The acre was escheated and gifted by the Crown to John Richardson.

[2] *MS. Accounts*, annis 1561, 1562, 1563, 1568, 1571, 1572.

[3] *Ibid. Exonerations*, 1561–68.

[4] *MS. Feu Charter*, 10th July 1557, *infra*, II. p. 107.

[5] Acts 1563 and 1571, *ut supra*, p. 151.

granted on 23rd April 1569.[1] There were, however, several material reservations upon this general grant. No prior infeftments confirmed by the Crown were to be invalidated, and the burgh rights were therefore restricted to those of a superior; while only one half of the bridge toll was conveyed, under the obligation to maintain the structure in repair. Johnston of Novinholm nevertheless maintained his rights under the charter of 1557 until 1591, when his title to the bridge toll was confirmed by the Crown; and it was only in 1623 that his granddaughter, Marion Johnston or Kirkpatrick, surrendered this ancient endowment of the friary to the magistrates.[2] Lastly, the pensions enjoyed by the surviving and recanting friars were to suffer no diminution; and in this connection the intromissions of Warden Home with the friary revenues, now increased to £43, 12s. 10d., call for extended comment. Their value was fixed at £33, 11s. 10d. by the Collector-General in 1561, and that sum, under burden of the pensions payable to the surviving friars, was conveyed to the town, "as thair gift under the grit seall" at some date prior to the year 1567.[3] For the year 1568, the Warden's pension of £16 appears in the accounts of the Sub-Collector, and the balance of £17, 11s. 10d. is entered as remaining in his hands and those of Archibald MacBrair—"allegit fewarris (feuars) of the annuellis and fishings." This entry reappears annually until the account of 1571, when they are stated to have £35, 3s. 8d. in their hands. In point of fact, Provost MacBrair's confirmed title to the fishings was unassailable, and these entries show that the Warden had been dealing with the official returns and the surplus under a collusive arrangement with him, as an individual. The issue of the Crown Charter to the burgh on 23rd April 1569 interfered with this partnership, and Home, without the consent of any of the surviving brethren, at once (23rd May) entered into a formal agreement with his partner under which he farmed the entire revenues to him in return for an annual pay-

[1] *MS. Charter*, original in Burgh Charter Chest.
[2] *MS. Original Charter and Sasine*, 31st July 1623. Burgh Charter Chest.
[3] *MS. Accounts of the Sub-Collector*, anno 1568.

ment of £43, 12s. 10d.[1] This assignation proceeded on the debatable assumption that the application of the entire Thirds to the maintenance of the Protestant clergy, under the Act of 1567, invested the surviving Wardens with an uncontrolled right to dispose of the friary revenues during their life, regardless of the claims of the simple friars. Such was not the view of the central authorities,[2] and in this instance the agreement with MacBrair was inimical to the interests of the burgh and of Friar George Law, who was entitled to the same share as his Warden. Accordingly the bailies, for the benefit of the burgh and at its risk, cancelled the agreement of 23rd May without the provost's consent, and undertook to pay Home £20 annually at Edinburgh in full of his rights,[3] without, however, recognising the claim of Friar Law to an annual payment of £16. A holograph receipt granted by Home at Edinburgh for the payment made at Martinmas 1570[4] testifies that the latter agreement was carried out, and that the Town Council entered into possession by allowing him an annual increase of £4. Therefore, assuming due payment of the feu-duty of the fishings by the provost to his fellow-magistrates, whom he had failed to overreach, the burgh secured a clear annual profit of £23, 12s. 10d. at the expense of George Law. For two years this unfortunate friar demanded payment in vain; and, in 1573, on the allegation that the revenues had been surrendered at less than half their value, under a "compactioun that meanis to debar him of any proffeit of the samyn," he summoned the burgh representatives before the Privy Council. Inevitable success attended the suit of this "puyr man having na uther thing to leif upon," and the quarrel thereupon disappears from record.[5] The motives underlying the two contracts were clearly fraudulent, and it may be more than a coincidence that one Charles Home was appointed

[1] *MS. Contract*, recorded *Reg. of Deeds*, IX. f. 419, *infra*, II. p. 117. In accordance with the Act of 1563, this liferent assignation of the revenues was granted for recurring periods of three years.

[2] *Supra*, pp. 155–56.

[3] *MS. Contract*, recorded *Reg. of Deeds*, XI. f. 71, 27th November 1569, *infra*, II. p. 119.

[4] *MS. Receipt*, *infra*, II. p. 121.

[5] *Reg. P. C.*, II. 233–34.

exhorter in the parish church of Troqueer at a salary of forty merks in the year 1568.[1] Finally, the financial exigencies of the quondam Warden and supposititious exhorter form a fitting close to the history of the friars of Dumfries, in the pitiable tale of poverty narrated in the letter of gift that revived the ancient annuity of twenty merks from the Castle Wards of Roxburgh as a pension for his old age.[2] The last representative of the Scottish Conventuals was clearly a courtier of resource, and was not immune from the *amor habendi*.

Wardens of Dumfries

1300.	Friar	William of Annan.
1459.	,,	Thomas Young.
1460–65.	,,	Thomas Fenton, also Provincial Vicar of the Conventuals in 1460–62–64–65.
1466–81.	,,	John Benyng, also Warden of the friary at Lanark in 1456, and Provincial Vicar in 1474–75.
1487.	,,	Walter Bachil.
1488–93.	,,	Walter Bowland.
1496–98. 1504–13.	,,	Andrew Fiffe.
1501.	,,	Andrew Haldane.
1523–29. 1534–37.	,,	Robert Little.
1530.	,,	Herbert Stewart, a simple friar in 1555–57, 58–60.
1550.	,,	Robert Harlaw, a simple friar in 1557–58.
1551–60.	,,	Charles Home.

ROYAL BOUNTIES TO THE GREY FRIARS OF DUMFRIES

I. Exchequer Rolls

In accordance with the grant of an annuity of twenty merks and twelve pence (£13, 7s. 8d.), payable by the Bailies of Dumfries to the friary out of the burgh fermes, that sum appears in the Rolls of 1327, 1330–31, 1375–76, 1381–82, 1384, 1387, 1393, 1398–1400, 1426, 1428–31,

[1] *Reg. of Ministers*, p. 44. (Bann. Club.)

[2] *Supra*, p. 206.

1434–35, 1446–49, 1452–60, 1462, 1465[1]–69, 1471, 1473–81, 1488–89, 1497, 1499–1501, 1502–12, 1518, 1526–35, 1537, 1541–42, 1551–57.

Composite payments of the above sum and fractional arrears appear as follows:—£26, 15s. 4d. in the Roll of 1398; £107, 1s. 4d. in 1445; £26, 15s. 4d. in 1451; £26, 15s. 4d. in 1464; £2 in 1484; £53, 6s. 8d. in 1493; £40 in 1496; £40, 3s. in 1515; £26, 15s. 4d. in 1517; £46, 16s. 10d. in 1521; £26, 15s. 4d. in 1523; £20, 1s. 6d. in 1525; £40, 3s. in 1540; £107, 1s. 4d. in 1550; £26, 13s. 4d. in 1560.

In accordance with the grant of an annuity of twenty merks from the Castle Wards of Roxburgh, payable by the Sheriff of Roxburgh, payment of that sum is entered in the Rolls as follows:—£13, 6s. 8d. in 1471; £40 in 1501; £13, 6s. 8d. in 1587–88 to Warden Charles Home.

Incidental payments appear:—£4 in 1266; £2 in 1465 for the lodging of Sir John Carlyle, Justiciar of the Duke of Albany; £10 in 1501 from the King for the repair of the friary.

II. Treasurer's Accounts

1503, 7th May. Item, to the Freris of Dumfreis, 14s.

Similar payments are recorded on 11th and 25th August, 1st and 8th September 1504, 3rd August 1505, 3rd May 1506, 21st March 1507, 28th May 1508, 23rd January, 28th February and 20th June 1512.

1503–4, 5th March. Item, to the Kingis offerand on the bred in the Freris of Dumfreis, 14s.

1505. Item, the 11th day of March, to the Wardane of the Freris of Drumfreis be the Kingis command, 18s.

1506. Item, the ferd day of Julij, for 24 elne grene birge satin, quhilk wes ane caip, tua tunycales, and ane cheseb to the Freris of Drumfreis, made in December bipast, ilk elne 10s., summa £12.

Item, for 5 elne (quarter) rede satin birge to be corses to the samyn; ilk elne 10s., summa 52s. 6d.

Item, for 3 steikis bukram to lyne the samyn, ilk steik 12s., summa 36s.

Item, for 4 unce ribanes to the samyn, 20s.

Item, for making of the samyn, ilk pece 6s., summa 26s. 8d.

Item, for 21 elne Bertane clath to be thre albes to the samyn, 42s.

Item, for making of thaim, 7s. 6d.

Item, for thre beltis to thaim, 2s.

1507. Item, the 14th day of March, to the Freris of Drumfries, thare, 18s.

1530. Item, the 19th day of August, to the Gray Freris of Drumfres, £10.

III. *Liber Quotid. Contrar. Gardrobae*[2] (Edward I.)

1300. 10 die Julii in oblac. Regis ad magnum altare in ecclesia fratrum minorum de Dumfres, 7s.

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[1] At this date the additional payment of one shilling was discontinued until 1499.

[2] Pp. 41, 43.

1300. 16° die Julii in oblac. Regis ad magnum altare in ecclesia fratrum minorum de Dumfres, 7s.

—— Fratribus minoribus de Dumfres, pro putura sua trium dierum in adventu Regis ibidem mense Junii, per manus Dni. Henrici elemosinar, 6s.—Eidem de dono et elemosina Regis in recompensa com. dampnorum que sustinuerunt in domibus et aliis rebus suis occasione adventus Regis ejusdem ibid. per duas vices mense Junii, per manus dicti Domini Henrici, 6s. Summa, 12s.

—— Fratribus minoribus de Dumfres pro putura sua 4 dierum in mora Regis ibidem mense Octobris, per manus fratris Willmi de Anand. apud Dumfres, 1 die Novemb., 5s. 4d.

—— Primo die Novembris, viz., in festo Omnium Sanctorum, in oblacionibus participatis ad missam celebratam in presencia Dni Edwardi filii Regis in ecclesia fratrum minorum de Dumfres, 6s.

Grey Friars chanting the Office.
From 14th Century MS.

CHAPTER VIII—(*continued*)

CONVENTUAL FRIARIES

Dundee

During the ninth decade of the thirteenth century the fifth Conventual friary was also founded by Devorgilla, Lady of Galloway,[1] in the royal burgh of Dundee, and its erection is generally assigned to the year 1284. The friary does not appear as a recipient of the royal charities in the excerpt taken from the Rolls for the year 1281 by the English Treasurer, Cressingham; but, in the Mandamus of Warenne, issued in 1297, the Friars Minor of Dundee are stated to "have been accustomed to receive £10 sterling and twenty pounds of wax by *divers charters* of the Kings of Scotland which the friars have thereof."[2] Both Fordun and Wyntoun attribute the foundation to Devorgilla, and, as the language used by Professor Cosmo Innes in his report on the churches of Dundee[3] seems to imply that their statement was confirmed by a transcript of the original charter preserved in the Hutton Collection,[4] there seems no reason to doubt that the year 1284 witnessed the settlement of the friars in Dundee. The friary, like its three predecessors, was situated outside the burgh, on its north side, on a piece of ground locally known as the Howff, and presently in use as a public

[1] Fordun, *Scottichronicon*, à Goodall, I. 474; Wyntoun,

"Howssys of Freris sho fwndyt tway;
Wygtowne and Dundee (war) thai."

[2] *Hist. Doc. Scot.* (Stevenson), II. 244–45.

[3] Dundee Stipend Case, 1850; *Unextracted Processes*, G. R. H.

[4] In the *History of Old Dundee*, p. 57, Mr. Alexander Maxwell says that a search in General Hutton's MSS. has failed to discover this transcript referred to by Professor Cosmo Innes. This statement has been confirmed by the writer, and a further examination of the Hutton MSS. in the British Museum has been attended with no better success.

burial-ground, in accordance with the right granted to the burgesses of Dundee by Queen Mary in 1564—"to bury yair deid in yat Place and yardis quhilk sumtyme was occupyit by ye Gray Cordelier Freris outwith and besyd our said burght."[1] The church and buildings occupied the south side of this area on which the friary school[2] was also erected at some date prior to the year 1335. None of the other Conventual friaries in Scotland are known to have possessed a school, and it may therefore be surmised that Dundee, which assumed the control of the community in Scotland, and became the recognised residence of the Provincial Vicar, was the educational centre for the Conventuals, after the manner of St. Andrews and Edinburgh in the Observatine organisation of the fifteenth century. The northern portion of the area was occupied by the friary yards, and the arable land, extending to three or four acres, was separated from them on the north by a small stream known as the common burn of the town. These acres extended northward over the rising ground of the East Chapelshade, parallel to the burgh Common, towards the lands belonging to the hereditary Constable of Dundee; while a part of the friary yards, known as the Well Yairds, lay on the west side of Kintore Hill and the Whin Garden.[3] This area is described in almost identical terms in the contract of sale between the Earl of Crawford and the Hospital Master in 1594, the last clause of the description placing it beyond doubt that the friary remained outside the burgh walls so long as it was occupied by the friars.[4] Under the systematic cultivation of the lay brothers, the arable land acquired an agricultural value of forty pounds per annum;[5] and, in 1594, the Earl of Crawford accepted eighteen hundred merks Scots, in lieu of his past and future rights in the entire subjects.[6] The buildings were of the unpretentious rubble work that characterised Franciscan

[1] *Charters and Writs of Dundee*, p. 40; *infra*, II. p. 145.

[2] In certain contexts the *studium* was the desk allotted to the friar.

[3] *Precept*, 21st March 1565–66, *MS. Reg. Privy Seal*, XXXV. f. 13, *infra*, II. p. 144.

[4] *MS. Contract of Sale*, 13th October 1594; *Accompt Books of the Hospital*; Transcript produced in the Dundee Stipend Case, *ut supra*.

[5] *MS. Records of the Burgh and Head Courts*, 7th August 1560. Sale of the standing crop.

[6] *Charters and Writs of Dundee*, p. 44.

architecture in this country, and the church possessed one distinctive feature in its "gret est wyndow," a forerunner of the better known window in the Observatine Church at Aberdeen. Around the enlarged nave, where the citizens assembled to hear the forceful sermons of the friar preacher, were placed the tombs and cenotaphs of those who elected to be buried within the friary church. No estimate can now be formed as to the number of these monuments; and we must perforce rest content in the possession of one authentic record relating to the family burial vault of the Lindsays, Earls of Crawford, who were generous supporters of the friary, and adopted the style of "Protectors and Defenders, under His Highness the King, of the Friars Minor of Dundee." This vault was probably erected in 1407 after the death of Earl David, who died at Findhaven in February of that year and was buried in the friary church at Dundee.[1] David, the third Earl, died in 1445–46, while under sentence of excommunication by Bishop Kennedy for having attacked the lands of the church; so that it was not until 17th November 1478, that his widow[2] was able to secure the performance of the customary divine services for the weal of his soul, under a charter in which she granted the friars an annual rent of twenty merks out of the lands of Drumcarne in Glenesk.[3] The mass was to be known as the Earl of Crawford's Mass, and during its celebration his escutcheon, becomingly draped with tapestry, was to be brought forward from its place in the choir and incensed after the veneration of the Host. This charter was confirmed eleven years later in an indenture entered into between her grandson, David, Earl of Lindsay and first Duke of Montrose, and "his humble bedemen[4] and orators Freir John Yhare, Minister Provincial of the Freirs Minor of Scotland, togidder with the consent and assent of the haill Chapter Provincial, Wardens, Discretors, and Diffinitors."[5] In terms of this deed, to which "the seals of the Minister and Wardens principal is to-hungen" in the

[1] *MS. Genealogy*, quoted in the *Lives of the Lindsays*, I. 104.
[2] Marjory, daughter of Alexander Ogilvy of Auchterhouse.
[3] *MS. Reg. Mag. Sig.*, XXV. No. 283, *infra*, II. p. 125.
[4] Prayer-men.
[5] *Indenture*, 2nd August 1489, *infra*, II. p. 127.

Provincial Chapter at Inverkeithing, the friars undertook to continue the celebration of the daily mass at the high altar, and, on Fridays, to sing a Requiem mass, both to be known as the "Duke's Mess of Montrose." "Mairatour the said Warden and Convent shall graith an honourable epitaph, coverit with an honourable tapet, with twa serges borne with twa angels of brass, as chandelars, to be lightit at the said mess, the quhilk epitaph the ministers of the altar principal, efter the veneration and honouring of the Sacrament, shall incense honourably."[1] In token of gratitude, the Duke and his wife were admitted to the Third Order of St. Francis under Letters of Confraternity—"The whilk day this said mighty prince and Lady Margaret, his spouse, was resavit in the Provincial Chapter to the Confraternity of the Order of St. Francis"[2]—and at his death in 1495 Montrose was buried in the friary church beside his ancestors.[3] Another member of this house who is known to have been buried in the family vault was Earl John, one of the slain at Flodden.[4] His life had been marred by the crime of fratricide, in expiation of which he granted an annual rent of twenty merks out of the lands of Montago, on condition that a daily mass was celebrated at the high altar between the hours of eleven and twelve forenoon[5] for the souls of his father, his elder brother, his wife and himself, and that daily absolution was granted at the cenotaph of the Earls of Crawford. The friars remained in receipt of these two annual rents until 1559, having received a Precept under the Privy Seal on 17th April 1536 for the customary Charter of Confirmation granted by the Crown in respect of the latter;[6] but the special provision for the reversion of Earl John's annual rent to his successors, in the event of the friars being disabled

[1] *Indenture*, 2nd August 1489, *infra*, II. p. 127. [2] *Docquet, ibid.*

[3] *Lives of the Lindsays*, I. 172. Alexander the fourth Earl—known as Earl Beardie or the Tiger Earl, from the length of his beard and stern disposition—who died in 1453, and Alexander the seventh Earl, who died in 1517, were also buried in the friary church.

[4] *Ibid.* I. 187.

[5] *MS. Reg. Mag. Sig.*, XXV. No. 330, 15th April 1506, *infra*, II. p. 137. David Ogilvy's mass, dating from 1492, occupied the time between ten and eleven, *infra*, II. p. 134.

[6] *MS. Reg. Privy Seal*, X. f. 140.

from celebrating the mass through lawful impediment, remained unfulfilled at the Reformation, when the revenues of the friary were immersed in the Common Good of the burgh.

Among the few incidents of general history intimately connected with this friary, the highest degree of romantic interest attaches to the assembly of the patriotic clergy in its church on 24th February 1309.[1] There, in surroundings of simplicity according well with their character and the nature of their resolution, they homologated their previous course of action by a solemn avowal of their intention to support the claims of Robert Bruce to the Scottish Crown, and thus pledged the full weight of their influence with the people to his cause. It is impossible to ascertain whether the friary at Dundee was as yet vested with the control of the Scottish Vicariate; but it is nevertheless entitled to the honour of having been the first which definitely associated itself with the struggling band of patriots, in spite of the benevolent attitude adopted towards the Order during the English campaigns in Scotland. Considering that Edward I. was a professed admirer of the Grey Friars, a friend of the Scottish friars during the opening years of the War of Independence, and a frequent supplicant of the prayers of the Chapter General for the success of his expeditions, it is more than probable that this friary escaped the fate of the parish church, which was wholly destroyed during his march to Stracathro in 1296. In 1335, however, it felt the heavy hand of the English invader. A band of piratical sailors from Newcastle, as the chronicler is pleased to describe them, attacked Dundee, burnt the school and dormitory of the friary, and carried off its great bell to Newcastle, where it was sold to the Black Friars of Carlisle. It would be ungenerous to doubt the legal knowledge of the English Franciscan, who concludes his narrative of the spoliation by the statement that neither the sellers nor the purchasers had any right to carry out this transaction.[2] From the Exchequer Roll of 11th June

[1] *Nat. MSS. of Scotland*, Vol. I.

[2] *Lanercost Chronicle*, p. 282. During the attack on the friary one of the brethren who had formerly followed the profession of arms was burnt to death.

1342, it is clear that the itinerant Court of Exchequer made use of the friary as an *hospitium regis* during the collection of the royal taxes. On this occasion, the friars accepted a donation of fivepence "for the occupation of their houses," although it was the custom of other religious houses to charge a substantial sum for similar accommodation.[1] During the year 1379, a donation of £2, 13s. 4d. by Robert II. towards the repair of the buildings is to be noted;[2] and six years later Froissart asserts that the friary was totally destroyed by fire during the invasion of Richard II.[3] Passing over a period of a century, during which the sources are silent as to the progress and history of the friary, we come to 1481, a year of famine, when there was much suffering among the less wealthy of the religious Orders. In their extremity, the friars found it necessary, "for the maintenance of their miserable life and that they might continue in the service of God," to put away and pawn their books, chalices and the ornaments of their church, in order to procure the necessaries of life.[4] This incident, occurring so late as 1481 in the chief Conventual friary in the country, would scarcely lead us to believe that the friars had abandoned their creed of poverty and lived a life of plenty nourished from an inexhaustible storehouse and cellar. A generous benefactress in the person of Beatrice, Countess of Erroll, however, came to their assistance with a gift of £100 Scots for the redemption of these cherished possessions[5] and for the repair of the friary, "including our gret est wyndow's mending." She also contributed such acceptable additions to the larder "in this deyr yeir" as twenty-four shillings worth of meal, thirty shillings worth of malt, two marks of beer, a gallon of oil worth thirty-two pence, a kellyn thirty pence and a small haddock sevenpence.[6] The charity of the Countess was

[1] *Treasurer's Accounts*, I. xviii., ed. note. [2] *Exch. Rolls*, *infra*, p. 239.

[3] He is the only chronicler who records the presence of Richard II. beyond the Forth.

[4] *Indenture between the Countess of Erroll and the Friars of Dundee*, 25th November 1482, *infra*, II. p. 130.

[5] At this time silver was worth eleven shillings per ounce, and silversmiths received about two shillings per ounce for their work. *Treasurer's Accounts*, 1506.

[6] *Obligation* by Friar James Lindsay, Provincial Vicar, 12th March 1481–82, *infra*, II. p. 129.

recognised by the Provincial Chapter held at Dundee during the spring of 1482,[1] and later in the same year their promise to perform a daily mass was incorporated in a formal deed of Indenture with the Countess, whereby a daily mass, known as the Lady Mass, was to be celebrated for her deceased husband, her son Earl William and herself at the high altar, or at that in honour of the Three Kings of Cologne, if she carried out her intentions of erecting that altar in the friary.[2] The principal interest of this document, however, lies in the fact that it was signed by, or on behalf of, the thirteen friars who constituted the Franciscan community in Dundee at this date, and that eight of them signed *propria manu.* The five illiterates were doubtless lay brothers who occupied themselves with agriculture and kindred pursuits for the support of the friary, in preference to indulging in aspirations towards clerkship and its privileges. Otherwise the personnel of the friary is all but shrouded in anonymity. A few of the Wardens after 1462 appear by name in the Exchequer Rolls, and claim attention on account of their lengthy tenure of office and the evidence of their scholarship. James Lindsay, Bachelor of Theology, comes under notice in 1464 as Warden, as Provincial Vicar of the Conventuals in 1466, and in the latter capacity ruled the Province almost continuously until his death in 1483 or 1488, an eventful period marked by the famine and by the tactful organisation of the Observatine Province. In 1488, Andrew Russell, Bachelor of Theology and Warden of Kirkcudbright ten years previously, was elected to the wardenship and granted the receipts to the magistrates for their annual pension of £5 until 1512. One of his successors, John Connelson, Warden of Roxburgh in 1501, was promoted to this friary in 1517–18, and to the Provincialate in 1521, 1530 and 1532. John Ferguson appears as Warden in 1521, and, along with his Provincial, defended the dignity of the Conventuals against the Observatines in the Court of the

[1] *Obligation, supra*, p. 223.

[2] *Indenture*, 25th November 1482, *infra*, II. p. 131. This Indenture was reconfirmed by the seven Conventual Wardens in the Provincial Chapter held at Lanark on 11th July 1490.

Bishop of Brechin.[1] A man of administrative genius, Friar Ferguson rose to the Provincialate in 1541 and remained the controlling personality among the Conventuals until 1560, finally disappearing from record after signing the Feu Charter under which Warden Auchinleck of Haddington transferred his friary to George Simson on 21st September 1565.[2] The number of friars resident in 1560, or the proportion of them who abandoned the old faith is wholly problematical. The only friars of Dundee who appear as recipients of the Mendicant pension, along with the six apostate Dominicans of Montrose, are John Ferguson, the Provincial Vicar, and John Brown, Warden for the year 1560.[3] The former received the pittance from 1561 until 1563, but his name is absent from the account of 1566.[4] The latter was appointed keeper of the "Knok," and drew his pension from the Thirds of Benefices until the friary revenues were transferred to the town in 1567; and, in 1573, the Commissioners of Platt decided that this sum should constitute a liferent charge upon the funds of the Hospital of Dundee, to which the ecclesiastical revenues of the burgh had been assigned.[5] Friar Brown died in 1586.

The remaining history of the friary is little more than a catalogue of spoliation, destruction and competition for its possession. The Protestant sympathies of the burghers were displayed in the hearty welcome accorded to Friar Alexander Dick in 1532 after his escape from Aberdeen,[6] and in hanging the image of St. Francis about 1536.[7] But when their reforming zeal was stirred to action in 1543 by the eloquence of George Wishart, the clandestine assurance of viceregal approval proved a worthless guarantee of immunity. On this occasion, if we may judge from the indictment, the interior and furnishings of the friary and church alone suffered at the hands of the rioters, who carried off everything which they could not destroy. In fact, the spoliation of the "nest"

[1] *Supra*, p. 60. [2] *MS. Feu Charter*, *infra*, II. p. 48.
[3] *MS. Accounts*, Collector-General, 1561–62; Sub-Collector, 1563–66.
[4] Those for the years 1564 and 1565 are not preserved in the General Register House.
[5] *MS. Rental of Chaplainries*, *infra*, II. p. 148. [6] *Supra*, p. 106.
[7] Pitcairn, *Criminal Trials*, I. 1, 286.

was so complete that the brethren were even deprived of their cowls and bedclothes, and the process of replacement must have taxed the charity of the Romanist burghers to an unusual extent during the next few years, considering that the magistrates defrauded the friars of their annual pension until 1547.[1] When the English were driven out of the town two years later, the friary buildings were left in a ruinous condition, and, it is now believed, were not wholly repaired before 1560. The friars, however, continued their work within the burgh, receiving their usual pensions and cultivating their glebe. On 11th July 1557, they anticipated the renewal of the storm by infefting their "defender and protector," David, ninth Earl of Crawford, in the whole of their land, excepting the graveyard, church and friary buildings, in return for an elusive feu-duty of seventeen merks,[2] that was neither paid to them nor to the magistrates after their departure.[3] The provisional nature of this conveyance is evident when we find the friars, though superiors, continuing to cultivate the land during the lifetime of their noble vassal, who died on 20th September of the following year; and the ruinous condition of the church may account for the fact that he elected to be buried at Edzell, in preference to the family vault in the friary that had been in continuous use since 1407.[4] His successor maintained the validity of the Feu Charter granted by the Chapter, and conformed to the retrospective Act of 1563 by securing its insertion in the Register of Abbreviates,[5] as the necessary preliminary to the grant of a Crown charter in terms of a precept dated 21st March 1565–66.[6]

No record has been preserved of the manner in which the Franciscans terminated their mission in Dundee.[7] Perchance,

[1] *Exch. Rolls*, 3rd August 1547. They also withheld payment of the pension due to the Dominicans of Perth. *Blackfriars of Perth*, pp. 236, 242.

[2] *MS. Abb. Feu Charter and Precept*, 21st March 1565, *infra*, II. pp. 143–45.

[3] *MS. Hospital Rentals*, Charge III.

[4] Test. confirmed, 1st October; *Scots Peerage*, III. 28 (Balfour Paul).

[5] *MS. Abb. Cartar, Feudifirme Cartar, Ecclesiasticar.*, I. f. 211; *infra*, II. p. 143.

[6] *MS. Reg. Privy Seal*, XXXV. f. 13; *infra*, II. p. 144.

[7] The reformation of the Kirk of Dundee, referred to by Knox in his letter to Anna Lock, does not warrant the assumption that the churches of Dundee had been attacked before his arrival in Scotland on 2nd May 1559. He doubtless

the ruinous condition of the friary held out no inducement to the citizens after their visit to Perth and the destruction of Scone. The friars sowed their crop for the year 1560, and the charter granted by Warden Fluccar of Inverkeithing on 1st August explicitly states that the provincial and friary seals were affixed to it by John Ferguson and John Brown at Dundee two days later.[1] It is, however, probable that the friars had already abandoned their home before this date, and we find the magistrates in possession of the land and buildings on 7th August, when they sold the growing crop by auction for £40 to one George Hay;[2] but they relinquished their intention of proceeding with the sale of the "Acres," after a protest and claim had been entered by Patrick Gray on behalf of John Scrymgeour, Constable of Dundee.[3] The stones and building material soon shared the fate of the crop, a part being used for the erection of a new slaughter house in October 1560; and the process of demolition was hastened by the general instructions given to the town treasurer to remove the stones of the church and its steeple for the "common weill of the burgh."[4] A general lease of the agricultural land at a rent of £29, 10s. was granted to Thomas Monorgound in 1561 or 1562; and, on 11th September 1564, during a visit to the burgh, Queen Mary legalised the use of the friary "place and yaird" as a public burial-ground, because "within the realme of France and uther foreign parts thair is na deid bureit within borrowis, and grit townis bot hes thair bureall places and sepulturis outwith ye sam for evading of ye contagius seikness foirsaids."[5] In 1567, the magistrates received a royal grant of the whole ecclesiastical properties within the burgh and of the annual rents payable to the various churches, altars and religious houses from landward subjects.[6] Two years later they executed a formal

refers to Paul Methven's reformed church established in the preceding year. *Works*, VI. 22.

[1] *MS. Abb. Feu Charter*, *infra*, II. p. 163.

[2] *MS. Records of the Burgh and Head Courts*, 7th August 1560. Mr. Maxwell (I. 178) erroneously states that the price received was £14.

[3] *Ibid.*

[4] *Ibid. sub anno.*

[5] *Charters and Writs of Dundee*, p. 40.

[6] *MS. Precept* for the gift, 14th April, *infra*, II. p. 146.

conveyance of their general rights under this charter to the Hospital Master of the burgh—"only zat ye samen be labourit, occupyit and manurit to ye welfare of ye puir persons of ye said hospital and to none other use,"[1]—and, in particular, of their superior right in the lease of the friary acres, burghal rents and five annual rents producing £38, 5s. 8d., formerly payable to the friars out of non-burghal subjects. They failed to recover possession of two similar rents amounting to £1, 6s. 8d.; but their success in absorbing Franciscan endowments becomes the more marked, when we find that they recovered an annual revenue of less than £30 from the non-burghal endowments in the possession of all the other religious communities within the burgh.[2] The two competing rights in the friary acres now emerged; and, from the strictly legal point of view, they entered into serious competition with that of the Hospital Master. Fruitless negotiations ensued until the Parliament of 1587, in which a measure was brought forward to reconfirm the rights acquired by the burgh under the Crown charter of 1567. David, eleventh Earl of Crawford, thereupon entered a petition craving the reservation of his rights under the charter granted to his ancestor by the friars in 1557.[3] Success attended his claim, and the magistrates agreed to a compromise with him and with Sir James Scrymgeour. The latter conveyed his rights in the third part of the common meadows on 27th August 1591; while, in 1594, Earl Crawford abandoned his claim under a formal charter in favour of the Hospital Master, in return for a sum of 1800 merks (£1200) Scots,[4] and the whole friary property passed into the undisputed possession of the town. Three years later, the Court of Exchequer perceived that the Earl had not entered with the Crown after the death of Friar Brown in 1586, as was required of him by the Act of 1571; and the Sheriff was instructed to recover payment of

[1] *Charters and Writs of Dundee*, pp. 42–43.
[2] *MS. Rental of Hospital*, and *MS. Rental of Chaplainries.*
[3] *Acts of Parliament* (Thomson), III. 474.
[4] *Charters and Writs of Dundee*, p. 44; *MS. Contract of Sale*, 13th October 1594, *Accompt Books of the Hospital and Conveyances in favour of the Hospital Master.*

£22, 13s. 4d. as duplicand on his entry, and £85 as the arrears of the feu-duty for "the tofts, crofts, gardens and meadows of the Friars Minor," which were formerly held of the said friars and "are now in the hands of the King for the space of seven years and one term."[1]

This friary was by far the most wealthy Franciscan community in Scotland, and its permanent sources of revenue can still be reconstituted in their entirety. It participated in the royal bounties from the date of its foundation, and in 1297 the Chapter claimed to be entitled to an annual payment of ten pounds sterling and twenty pounds of wax from the Exchequer.[2] This claim was admitted by the English Treasury to the extent of seven pounds sixteen shillings and a pipe of wine for communion, in accordance with the return from the rolls of John Balliol.[3] During the remaining years of the War of Independence the friars received an annual allowance of five pounds Scots, which appears in the later records as "the old alms,"[4] and the royal charities were ultimately represented by three distinct annuities granted at different periods. The first, probably the original donation of Alexander III., amounted to five pounds Scots[5] paid by the Bailies of Dundee out of the burgh taxes as the yearly alms of the King. The most marked feature of this pension is the regularity observed in its payment by the burgh authorities; and it was continued until 9th August 1558, with the exception of a period of five years from 1360, when it was temporarily superseded by an annual rent of £4, 2s. 2½d., also paid out of the burgh fermes. There is doubtless more than a mere coincidence in the fact that the serious irregularities in payment date from the beginning of the sixteenth century; and, in 1527, when the Protestant sympathies of the burgh were acquiring notoriety, the services of Robert Rolland, factor and procurator of the friary, were requisitioned to secure payment of arrears to and supervise the receipts. In conjunction with the admonition of Provost Scrymgeour and his bailies in respect of the

[1] *Exch. Rolls*, XXII. 566.

[2] *Hist. Doc. Scot.* (Stevenson), II. 244–45. [3] *Rot. Scot.*, I. 38.

[4] In 1327 it was described as the yearly alms of the king; *Exch. Rolls*, I. 63.

[5] Sometimes treated in the Rolls as five merks, *e.g.* 1508. Summary, 1330–1558, *infra*, p. 238.

shelter accorded to the apostate Friar Alexander Dick,[1] the man of law secured prompt payment to his constituents. This pension was reconfirmed by James I., shortly after his return from England, in letters under the Privy Seal "to endure until further orders";[2] and from 1398 to 1442 it was supplemented by a regular annual payment of £1, 13s. 4d. by the Bailies of Crail, in accordance with a gratuitous assignment to the friars of a right of terce in ten merks payable out of the burgh customs to Lady Marjory, widow of Sir Alexander Lindsay of Glenesk.[3] The second, an annuity of twenty merks, was granted by the Bruce at the close of his reign, the first payment being recorded in the Roll of 1330. It was at first paid directly from the Exchequer, then from the Castle Wards of Edinburgh, and shortly afterwards in equal portions from those of the Constabularies of Linlithgow and Haddington. The instalments did not, however, invariably reach the friary treasury, with the result that the friars appealed to the King in Parliament, and secured a mandamus in 1389 upon the Sheriff of Edinburgh, and his Bailies of Linlithgow and Haddington, "for prompt payment to the friars in terms of their charters both as concerns arrears of the past and future payments."[4] Nevertheless, the pension often went unpaid for several terms, and, as late as 1501, the Earl of Bothwell, Sheriff of Haddington, recognised the defalcation of his predecessor by a payment of £46, 13s. 4d. (70 merks) in lieu of the preceding seven annual instalments of one-half of the alms of King Robert I.[5] The third royal annuity was represented by a sum of eleven shillings and eightpence paid out of the Castle Wards of Strabrok in Linlithgowshire from 1457 until 1542; and, on occasion, the Exchequer paid to the friars further sums assigned to them. Thus, on 3rd April 1395, by order of the unhappy David, Earl of Carrick, they received for one year £4, 13s. 4d. out of his pension of £640 paid from the customs of the burghs north of the Forth.[6] The donor and provenance of a chalder of bear, representing an annual value

[1] *Supra*, p. 106.
[2] *Exch. Rolls*, 19th April 1429.
[3] Summary, *infra*, p. 239.
[4] *Acts of Parliament* (Thomson), I. 558.
[5] *Exch. Rolls*.
[6] *Exch. Rolls*, IV. clxxi.

of twenty pounds in 1567, cannot now be ascertained, as it does not appear in contemporary records until 1561, when the accounts of the Collector-General were compiled. It is then stated to have pertained to the "Cordelier Freiris of Dundee"; and, from the fact that it was not comprised in the charter of ecclesiastical properties within the burgh, we may perhaps infer that it was an annual allowance in kind from the Crown. A special conveyance of it in favour of the burgh was granted by the Regent at some date between 1568 and 1576.[1]

In regard to private charities, the two annual rents of twenty merks granted by the Dowager Countess of Crawford and Earl John have already been referred to. In 1492, another annuity of twelve merks was granted by David Ogilvy of Inchmartin out of his lands of Pitmedill and Inchmartin, for the celebration of a daily mass and other services at the altar of the Blessed Virgin.[2] In this case, a prohibition against the sale of the right was inserted in the charter, and the magistrates were authorised to veto any such intention on the part of the friars by ingathering the rents and dividing them among the clergy of the parish church, in return for the celebration of the prescribed services. Andrew Whitehead, Vicar of Kilmarnock, contributed another of six shillings and eightpence in 1498;[3] and, in 1509, Sir Thomas Maule of Panmure, who had been admitted to the Third Order of Penitents by the Observatines, granted one of twenty shillings out of his lands of Skichen to provide for an annual service for the souls of himself and his relatives.[4] He is credited with a hasty and "choloric" temper; "yet," says the historian of the Maules, "afterwards he became very penitent of this, as like all other offences of his youth committed against God and his neighbours, as may

[1] *MS. Accounts*, Collector-General, Victual Charge, 1561–62, 1576; Sub-Collector, 1563, 1566, 1568–69.

[2] *MS. Reg. Mag. Sig.*, XIV. f. 361, *infra*, II. p. 133. Confirmed under the Great Seal, 6th October 1505, and marked in *Reg. of Privy Seal*, III. 125, *gratis fratribus de Dundee*.

[3] *MS. Reg. Mag. Sig.*, XIII. f. 345. Confirmed by James IV. *eod. die*, *infra*, II. p. 135.

[4] *Reg. de Panmure*, I. xxvi. and II. 276, *infra*, II. p. 138.

be perceived by the sundrie donations to religious houses."[1] The friars of Dundee shared in these testamentary bequests to the extent of three pounds twelve shillings for the weal of the knight's soul.[2] In 1526, under a disposition or testamentary writing executed by one James Rynd of Carse, the friars became owners of one-eighth of the lands of Lenlethyn, subject to the liferent granted in favour of Alexander Murie and his wife. Warden John Ferguson appeared in person to accept sasine of this land, and formally recognised the liferent burden.[3] Two other annual rents, of forty shillings and thirty-two shillings and fourpence, were granted to the friars at some unknown date over the lands of the Laird of Wauchton in the Mearns, and Alexander Strang's tenement in Forfar respectively.[4]

Within the burgh itself we are in a position to form an exact estimate of the mortifications granted by the burgesses, and to appreciate the diligence displayed by the magistrates in securing payment to themselves of these ground annuals.[5] A typical example of the manner in which they were acquired and constituted is offered by a protocol of 3rd June 1532.[6] Either by gift or purchase, the friars had become possessed of a tenement of land[7] which they did not desire to lease to tenants or to occupy by themselves. A Charter of Indenture was accordingly entered into with Alexander Alanson and Cristina Thomson, his wife, whereby the spouses received an absolute disposition of the land in conjunct fee, subject to an annual payment of £5, 14s. 4d. Warden Ferguson granted sasine to them by the hands of Bailie Alexander Lovell, and thereafter Alanson's wife appeared alone in the bailie's court to take her great

[1] *Reg. de Panmure*, I. xxix. [2] *Ibid.* II. 286.

[3] *MS. Protocol Books, Dundee* (Burgh Charter Chest), 15th October 1526; *infra*, II. p. 142. There is no further trace of this property or of any ground annual secured over it in favour of the friars.

[4] *MS. Book of ye comoun Rentallis of the Burgh of Dundee*; *Hospital Account*, entries Nos. 200 and 201.

[5] *MS. Register of the Burgh and Head Courts of Dundee*, 6th October 1561 to 14th February 1562.

[6] *MS. Protocol Books, Dundee*, I. f. 232; *infra*, II. p. 142.

[7] Bounded north and south by Argyll Street and the cemetery of the parish church.

oath never to resile from her obligation. The two spouses then resigned their land into the hands of the bailie ; and he, in turn, gave Warden Ferguson one penny as the symbol of sasine and possession of the above annual rent henceforth payable to the friary.[1] In course of time this property was subdivided among several owners, and it is interesting to observe that £3, 14s. of this annual can be traced in 1569–70 from the limited descriptions entered in the Hospital Rental. These relics of burghal piety to the number of seventeen, representing an annual value of £14, 3s. 7d.,[2] were appropriated by the town almost immediately after the dissolution of the friary ; and, as a warning to burgesses who endeavoured to conceal the burden over their tenement from the burgh treasurer, one offender was summoned before the Head Court in respect of his attempted evasion. In the last resort, the alleged fraudulent alienation of burghal annuals was impossible, on account of the participation of the burgh officials necessary to any valid infeftment, and of the subsequent registration of the transmission in the Protocol Books ;[3] and by 1567–68 full possession had been secured for the Common Good.

As early as 1542, the friars had abandoned occupation and use of four grazing meadows, which formed part of their composite glebe, and secured in return a yearly rent of £2, 5s. 4d. from their tenants.

To conclude, the fixed annual income of this friary from permanent endowments never exceeded one hundred pounds Scots,[4] or one hundred and forty pounds if we include the

[1] These formalities will be readily recognised as the genesis of the modern Contract of Ground Annual. The double ceremony of resignation and the delivery of the penny as symbol of sasine in 1532 proves that the relations were not to be that of vassal and superior, as was the case between the Dominicans and their disponees.

[2] List A, *infra*, pp. 236–38.

[3] Registration in these books was regulated by Act of Parliament, and the Protocol Books were the forerunners of the system of registration of land rights finally established in 1617.

[4]

Exchequer payments	£19 18 4
Burghal ground annuals	14 3 7
Non-burghal ground annuals	39 12 4
Rents derived from friary meadows	2 5 4
One chalder of bear, worth in 1576	20 0 0
	£95 19 7

value of the crop cultivated by the lay brothers.[1] When compared with the miserable stipends forced upon the ministers of the new Church, it was indeed a slender endowment for the leading Conventual friary in Scotland with its community of thirteen friars; and, if the chalders of wheat, bear and oats were worth twenty-four, twenty and thirteen pounds respectively, a gallon of oil two shillings and eightpence, a small haddock sevenpence, and the grey cloth for a Franciscan cloak fifty-four shillings, the assistance received from the friary offertory and the voluntary charity of the burghers in money and kind must indeed have been of a substantial nature, before the friars could enjoy the bare necessities of life.

The subsequent history of these revenues is an apt illustration of finance under the new régime. The arable land was leased by the magistrates at a rent of £29, 10s. No account was taken of the site of the friary buildings or cemetery, and the annual value of the whole was entered at £75 in a hurriedly prepared inventory. Of this sum one-third was entered in the "King's Patrimony"[2] and also in the accounts of the Collector-General of Thirds for the year 1561, under burden of the pensions of £16 allotted to the Provincial John Ferguson and Warden John Brown. The remaining two-thirds were collected by the magistrates, and their strict inquisition soon resulted in an increase beyond the official value, leaving in abeyance the two non-burghal annuals of six shillings and eightpence and twenty shillings, formerly granted by Vicar Whitehead and Sir Thomas Maule. Their intromissions with, and future possession of, the entire revenues, for the "sustentatioun of the ministrey, maister of scuill and puir of the said burgh," was legalised by the Crown charter of 1567. In so far as the revenues of the Grey Friary were concerned, the result of this charter was to infeft the magistrates in the two-thirds of the revenues with which they had previously dealt, and in the one-third valued at £25 which

[1] The yearly income derived by the Black Friars of Edinburgh from ground annuals amounted to £288, 14s. 4d. in 1561, exclusive of Exchequer payments, of a chalder of bear and of the value of crop and leasehold rents produced by land in their possession. *Supra*, pp. 136, 137, 140.

[2] *MS.*, G. R. H.

had been uplifted by the Collector for the King's Patrimony. This third had previously been assigned entire to the minister;[1] but, in the account of 1568, the discharge records payment of it to the Town Council. In 1569 they formally conveyed their rights in the ecclesiastical properties to the Hospital Master,[2] and four years later the burgh was called upon to render an account to the Lords Commissioners of its intromissions with the ecclesiastical properties. The revenue derived from the annuals of the Grey and Black Friaries was returned at £53, 6s. 7d. and £10 less forty pence, and that from those of the Nunnery of the Grey Sisters at £1, 8s. Against this charge of £64, 11s. 3d. they produced a discharge of £92, 13s. 4d., comprising £50 for "clayth to cleyth the puir infantes and unabill personis of the said burgh," forty merks "for the uphald of the puir being in the hospitale furth of the freiris as the infeftementis beris," and £16 in payment of the pension of Friar Brown, paid from the Hospital fund since 1568.[3] The difference between this charge and discharge is approximately one-third; but from the Grey Friary revenues there are excluded in the charge £20 for the chalder of bear, recently transferred by the Regent to the magistrates under a special conveyance,[4] and £29, 10s. as the rent of the arable land. In point of fact, £53, 6s. 7d. represented only the value of the "freiris annuellis,"[5] and the intention of the magistrates was to fulfil their obligation towards the minister upon the smallest possible rental, alleging that the land in their possession was exempt from this contribution. The Commissioners were dissatisfied, and ordered the production of a complete rental "aganis the nixt

[1] *MS. Accounts, Sub-Collector*, 1566, Discharge.
[2] *Charters and Writs of Dundee*, pp. 42–43.
[3] *MS. Rental of Chaplainries*, 1573.
[4] *MS. Accounts, Sub-Collector*, 1576.
[5] *MS. Rental of Chaplainries*—

Non-burghal annuals	£38	5	8
Burghal annuals	14	3	7
Meadow rents	2	5	4
	£54	14	7
Value of the Grey Sister's Acre	1	8	0
	£53	6	7

Assemblie." The claims of the burgh's representatives—Scrymgeour and Kyd—on behalf of the Hospital were not, however, to be gainsaid. The minister was compensated by the substantial stent of 100 merks upon the "neighbours of the burgh,"[1] and the conditions attaching to the assignation of the friary rents were abrogated by the Commissioners so that they might "be halelie applyit to the sustentatioun of the puir for the quhilk it wes foundat."[2] In this manner, the poor of Dundee were provided for annually to the extent of about £85 from the property of their old friends and helpers, the Grey Friars.

COMPARATIVE INCOME OF FRIARY AND HOSPITAL

	Friary 1560.		Hospital.
Exchequer payments	£19 18 4	(discontinued after 1560)	£0 0 0
Chalder of bear	20 0 0	(passed into the burgh accounts)	0 0 0
Burghal ground annuals	14 3 7		14 3 7
Non-burghal annuals	39 12 4	(under deduction of two producing £1, 6s. 8d.)	38 5 8
Meadow rents	2 5 4		2 5 4
Value of crop	40 0 0	(represented by yearly rent of arable land)	29 10 0
	£135 19 7		£84 4 7

THE BOOK OF YE COMOUN RENTALLIS OF THE BURGH OF DUNDIE, ALMHOUS AND KIRKWARD THAIROF, COMPILED 1569–70. (*Original MS. Lockit Book preserved in the Council Chambers, Dundee.*)

Excerpts relating to the Grey Friary

III. CHAIRGE OR RENTALL OF THE MASTER OF THE HOSPITALL OF YE BURGH OF DUNDIE

A. ANNUAL RENTS SECURED OVER PROPERTY WITHIN THE BURGH

Annualrentis, fewmailles and utheris dewties, furth of ye said David Cokburnis land, haiffand on ye west the land of John Jakis airis, To ye greyfreiris zeirlie . . £0 7 6

[1] Dundee Stipend Case, Process, *ut supra.*

[2] Lord Boyd, Collector-General in 1574, revived the exaction of the third from the friary revenues; but on 29th October 1574 the Lords of Council granted letters of suspension against him at the instance of the provost and bailies regarding payment "of all ye maills and dewties of the lands, houses, zeards, etc. quhilk pertenit to the Freirs, sometime of the said burgh." *Ibid.*

Furth of ye land of Thomas Cokburnis airis, quhilk sumtyme pertenit to umquhile Alexander Lowell, by and on ye north syid of ye Flukergaitt betwix ye land of ye airis of James Gibson and John Hany on ye West pairtis, eisdem £3 4 0

Furth of the land of William Palmeris airis by and without the Nethergaitt Port, betwix ye land of ye said James Smithis airis of ye east and ye land of ye airis of umquhile William Maissoun on ye west pairtis, eisdem . 0 5 0

Furth of ye said David Fleming's land, by and as said is and havand on ye east Maister Edward Henrysonis land, eisdem 0 10 0

Furth of ye said Maister Henrysonis land, by and as said is and havand on ye east George Andersonis land, eisdem . 0 7 6

Furth of ye land of Johne Ferriar, sumtyme perteining to Thomas Henrysoun, by and on ye north syid of Ergyllisgaitt betwix ye land of George Baxter on ye east and the land of ye airis of William Browne on ye west pairtis, eisdem 0 13 6

Furth of ye land of ye airis of umquhile James Symesoun, alias Swyne, by and on ye south syid of Ergyllisgaitt, eisdem 0 15 0

Furth of ye land foirsaid of ye airis of umquhile Alexander Alanesoun, havand on ye east the Kirkstyill and ye land of Peter Wedderburn, eisdem 3 6 8

Furth of ye laird of Ogillis land, by and on ye north syid of Argyllisgait, betwix ye land of Thomas Annand on ye east and the land of George Bellis airis on ye west pairtis, eisdem 0 5 0

Furth of ye land of Johne Baxter, by and on ye east syid of the Buriall Wynd, betwix ye land of James Craill on ye south and ye land of David Campbell on ye north pairtis, eisdem 1 12 8

Furth of James Lowellis land foresaid, quhairin the Ketchpile is biggit, havand on ye east Sanct Salvatoris landis, eisdem 0 10 0

Furth of ye land perteining to Thomas Patersoune, alias Sandie, and Alexander Young, maissoun, quhilk pertenit sumtyme to umquhile Alexander Piggot, by and on ye north syid of ye Murraygaitt betwix ye land of James Ferriare and James Lowell on ye west and ye land of James Roch, his airis, on ye east pairtis, eisdem . 0 5 3

Furth of ye said Thomas Davidsounis land forsaid havand on ye east the land of Thomas Stewart, eisdem . . 0 5 0

Furth of ye airis of Robert Thomesoun, by and on ye Kowgaitt, eisdem 0 7 6

Furth of ye land of Alexander Mathow, by and on ye north syid of ye Seagaitt, betwix ye Seagaitt Port and the townis

comoun landis on ye east and ye land of Thomas Smith on ye west pairtis, eisdem	£0	7	6
Furth of ye Laird of Murthle, his land by and on ye north syid of ye Seagaitt, betwix ye land of Thomas Cowstounis on ye west, and ye land of Robert Manis airis on ye east pairtis, eisdem	0	7	6
Furth of ye medow pertening to ye said William Kynloch, by and on ye north syid of ye buriall place, eisdem .	0	14	0
	£14	3	7

B. ANNUAL RENTS SECURED OVER PROPERTY OUTWITH THE BURGH

Furth of ye landis of Drumcarne and Symok, by and in Glenesk, pertening to ye laird of Edzell, eisdem .	£13	6	8
Furth of ye landis of Montaigo, by and in ye Carss of Gowrie, pertening to ye laird of Ewlik, eisdem . . .	13	6	8
Furth of ye lands of Pitmidle, by and in ye bray of ye Carss of Gowrie, pertening to ye laird of Inchmartene, eisdem	8	0	0
Furth of ye landis of ye Brethertown, by and in ye Mernis pertening to ye laird of Wauchton, eisdem . .	2	0	0
Furth of ye land of Alexander Strang by and in ye burgh of Forfare, eisdem	1	12	4
	£52	9	3

C

Rent of the Grayfreiris acris of Land and Croft, by and about Sanct Francises Well, occupiet by David Abirdene last sett for ye zeirlie maill of . . .	£29	10	0
Of William Kynloch's meadow	0	14	0
Of Andrew Barry's meadow	0	18	0
Of James Lowell's meadow	0	13	4
Total annual income derived by the Hospital of Dundee from the ground annuals and lands of the Grey Friary .	£84	4	7

ROYAL BOUNTIES TO THE GREY FRIARS OF DUNDEE

I. EXCHEQUER ROLLS

In acquittance of a pension known as the "old alms of the King," amounting to £5 paid by the Bailies of Dundee, whole or partial payments are recorded under the years 1327–32, 1365–67, 1369, 1372–73, 1375–77, 1379–82, 1384, 1386–93, 1395–1407, 1409–10, 1413–18, 1421–22, 1425–26, 1428–31, 1434–35, 1438, 1442–51, 1454–60, 1463–69, 1471, 1473–93, 1496–99, 1508, 1511–12, 1518, 1528, 1531–34, 1537, 1540–43, 1551–58.

Composite or multiple payments of the same are recorded: £6, 13s. 3d. in the Roll of 1359; £10 in that of 1412; £10 in that of 1420; £15 in

that of 1441; £10 in that of 1453; £15 in that of 1462; £10 in that of 1495; £15 in that of 1502; £15 in that of 1505; £10 in that of 1507; £10 in that of 1510; £25 in that of 1517; £17, 10s. in that of 1522; £27, 10s. in that of 1527; £10 in that of 1530; £10 in that of 1539; £20 in that of 1547; £15 in that of 1550.

In acquittance of an annual rent of £4, 2s. 2½d., which replaced the foregoing pension of £5 between the years 1360 and 1365, payments are recorded as follows: £4, 2s. 2½d. in 1360; £6, 3s. 6d. in 1361; £3, 16s. 1d. in 1362; £10, 13s. 11d. in 1364.

In acquittance of the pension of 20 merks or £13, 6s. 8d. granted to the friars by Robert the Bruce, payments are recorded in the following Rolls: £13, 6s. 8d. in those of 1330, 1365, 1455, 1456, 1463, 1471; £6, 13s. 4d. in those of 1461, 1471; £46, 13s. 4d. in that of 1501.

In acquittance of the pension of 11s. 8d. paid out of the Castle Wards of Strabrok, payments are recorded in the following Rolls: 11s. 8d. in those of 1457–58, 1469, 1471, 1475–82, 1487–88, 1491–92, 1495–98, 1503–5, 1508–14, 1542; 16s. 8d. in that of 1466; 17s. 3d. in that of 1501; £1, 3s. 4d. in those of 1465, 1468, 1486, 1490, 1507.

The following incidental payments are recorded: 11th June 1342, fivepence for the occupation of their house.

5th April 1359, forty shillings as the King's alms.

April 1379, £2, 13s. 4d. for the repair of their houses.

13th July 1454, £2, 14s. paid by the Custumars of Dundee to Friar Henry Bowle of the Order of Minors for grey cloth to make him a robe, which cloth he sold on the morrow for ready money.

In acquittance of the right of terce of Lady Marjory of Lindsay in one hundred shillings of the fermes of Crail assigned to the friars, payments are recorded by the Bailies of Crail in the following Rolls: £1, 4s. 6d. in that of 1426; £1, 13s. 4d. in those of 1398–1400, 1402–7, 1409–10, 1413–18, 1428–31, 1434; £2, 10s. in those of 1401, 1435; £3, 6s. 8d. in those of 1412, 1420, 1422; £4, 3s. 4d. in that of 1442.

Edinburgh, 11th November, 1594. The Sheriff will answer for £85 of feu-farms of the whole tofts, crofts, gardens and meadows of the Conventual Friars Minor of the burgh of Dundee, which lie within his bailiary, excepting only the church, place and burying ground of the said Friars, which [feu-farms] are in the hands of our Sovereign Lord the King for the space of seven years and one term or thereby immediately bypast, sasine not being recovered; and for £22, 13s. 4d. as duplication of the said feu-farm: which formerly were held from the Friars Minor of the burgh of Dundee and now, etc., due to his Majesty conform to sasine granted to David, Earl of Crawford.

II. Treasurer's Accounts

6th October 1504. To the Freris in Dundee, 14s.

18th March 1531. To the Cordilleris of Dundee by the Kingis precept, £10.

CHAPTER VIII—(*continued*)

CONVENTUAL FRIARIES

Lanark

The friary at Lanark owed its foundation between 11th November 1328 and 15th May 1329 to Robert the Bruce, the most lavish benefactor of the Conventual Franciscans among the Scottish Kings. From one, Ellen de Quarantly, he acquired by excambion "a manor and orchard within the burgh of Lanark as they lie and are enclosed by a wall";[1] and, in the Roll audited on 7th August 1329, "those lands granted to the Friars Minor for the site of their place" were exempted from payment of the old tax of twenty pence due to the Crown.[2] This land measured one acre one rood,[3] and, from the only extant description of it now preserved in an Instrument of Sasine, dated 20th October 1620,[4] it lay at the east end of the burgh on the south side of the High Street. In 1620 it was bounded on the west by the "Common School" of Lanark and the two tenements on either side of it. The garden ground of two burgesses marched it on the east, and to the south lay three roods of land to which, as in other burghs,

[1] *Charter of Excambion*, undated; *Reg. Mag. Sig.* (Print), I. 15, No. 76, "*infra burgum de Lanark sicut jacent et clauduntur in circuitu per murum.*"

[2] *Exch. Rolls*, I. 163, Account of William Aldyn, Bailie of Lanark. In the preceding Roll, rendered 5th February 1327–28, the exemption of the friary does not appear.

[3] *MS. Rental of Great Benefices*, 1561, *Harleian*, 4623, pt. II. f. 9.

[4] Recorded *eod. die*, *MS. Particular Register of Sasines* (Lanarkshire), II. f. 21. This Sasine proceeded upon a charter of the site of the friary by Sir James Lockhart of Lee, whose ancestor received a grant of it from the friars before the Reformation (*infra*, II. p. 158). The draughtsman of these two documents treated the High Street as running south-east to north-west, and therefore, as was customary with conveyancers of the time, the High Street appears as the east boundary. This change of the cardinal points will also be observed in the conveyances relating to the Aberdeen Friary; and, in this case, the north, east, south and west in the writ of 1620 would be more accurately described at the present day as west, north, east and south.

the friary gave the name of Freiryards, although they never were in the possession of the friars.[1] In 1505 they were described as the "land behynd the Freris";[2] and, in view of the confusion that has arisen concerning the site of this friary,[3] it must be observed that the Freiryards were distinct from the "Burgh Roods," in which the friars themselves owned two roods as rentallers of the town.[4] Between this date and 1560 these two roods were increased to an acre, to which was added another plot cultivated by the friars as a kaill yard.[5] From the uniform description contained in the writs granted between 1570 and 1588, we are enabled to identify this disjoined land as lying in the "Burgh Roods," otherwise in "Weitlandsyde within the territory of the said burgh."[6] The Freiryards, on the other hand, were bounded on the south by a vennel called the Freirwynd—now the South Vennel—which turned west or north-west past the Old Kiln[7] in the Freirwynd and the garden of John Lindsay, minister of Carluke, until it gave access to the friary at a point between the houses of the minister and James Mowat, writer.[8] We also learn that the friars acquired a servitude of passage and entry to their Place over this Freirwynd, and over another vennel that divided Mowat's tenement from the burgh school.[9] The Franciscan friary therefore lay between the South Vennel and the High Street, and had no connection with the site of the present Clydesdale Hotel. If that building does occupy friary lands, it can only be those of another body of Mendicants called the *Fratres Egregii*, who were settled in the burgh and possessed a church in the year 1550;[10] but it is much more

[1] Cf. *Roods of the Freir Wall in Haddington*, *supra*, p. 169.

[2] *Records of Lanark* (R. Renwick), p. 19.

[3] *Ibid.* p. xvii. [4] *Ibid.* p. 15.

[5] *MS. Letter of Redemption*, 6th May 1610, recorded *Particular Register of Sasines* (Lanark), II. f. 90: "the ground, place or seat house, biggings and yeardis adjacent thereto pertaining of old to the freris, callit the little Cordilerfreris of Lanark, with ane acre of land pertaining thereto lyand on the Weitlandsyde."

[6] Charters granted to Adam Stewart, Bernard Lindsay of Inglisberry, and James Lockhart of Lee, and Summons of Ejection, *infra*, II. pp. 154–158.

[7] *Records of Lanark*, p. 302. [8] *MS. Instrument of Sasine*, *ut supra*.

[9] *Ibid.* *Vide* also *Records of Lanark*, p. 120. It was still known as the Freirwynd in the seventeenth century.

[10] Testament of Andrew Allan, Vicar of Lanark, *MS. Reg. Confirmed Testaments* (Glasgow), 49*b*, 8th June 1550.

probable that the human remains discovered behind the hotel identify the site as the cemetery of the Laigh Kirk, now the parish church.[1]

In addition to this land within the burgh, the friars also acquired one acre in the Mains of Lee, and two others in the Mains of Cleghorn called the Vicar's croft.[2] These acres were arable land, and it is more than doubtful whether the friars ever enjoyed any higher right in them than that of leaseholders or rentallers. From their founder they received the customary annuity of twenty merks[3] which they retained until the Reformation, when the burghers procured an assignation of it to the "Parson of Lanark."[4] The formal Bull of Erection was granted by Clement VI. in 1346 on the petition of David II. and his Queen Johanna, one of its clauses expressing the intention that the Chapter should consist of twelve members "dwelling therein decorously and fitly;"[5] but in view of the number of friars known to have been resident in the larger friaries at Dumfries, Haddington and Dundee, it is highly improbable that this provision was ever complied with in Lanark. Seldom visited by the sovereigns or their justiciars, its friary is the only Franciscan house in Scotland which does not appear as the recipient of one or more gifts from the privy purse of James IV. and his successors;[6] and the charity of the burghers was represented by one annual rent of five merks that was expressly included in the Crown charter of the friary and its pertinents granted to Bernard Lindsay of Inglisberry Grange in 1581.[7] The monks of Kelso also contributed two bolls of oatmeal annually from the revenues of the Priory of Lesmahagow,[8] a cell of the Abbey; and two other bolls were given in 1535 by the Earl of Arran from his barony of Liberton, as well as a further

[1] That is, St. Nicholas Chapel.

[2] *Reg. Mag. Sig.* (Print), 18th March 1587–88.

[3] *Exch. Rolls*, payments recorded 1359, 1388, 1455–56, 1471, 1501.

[4] *MS. Rental of Great Benefices*, 1561, *Harleian*, 4623, pt. II. f. 9.

[5] *B. F.*, VI. No. 192, p. 26; II. p. 149. [6] *Treasurer's Accounts.*

[7] *Reg. Mag. Sig.* (Print), 18th March 1587–88; *infra*, II. p. 154. *MS. Accounts of the Collector-General*, 1561–72. This paucity of endowment is paralleled in the cases of the three other small friaries, Kirkcudbright, Inverkeithing and Roxburgh. *Vide* Summary, p. 140.

[8] *Liber de Calchou*, II. 480 (Bann. Club).

allowance of twenty shillings from his barony of Crawfordjohn.[1] During the eight years embraced in the extant fragment of the diocesan register of wills, no legacies were received by the friars from laymen; but within the same period Gavin Dunbar, Archbishop of Glasgow, and Andrew Allan, Vicar of Lanark, each left them one of two pounds Scots.[2] The Vicar directed that his body should be buried in the aisle of St. Mary within the friary church, for the fabric of which he left an additional two merks; and the friars would also participate in the sum of sixteen pounds left by him for the purchase of sixteen torches for the altars within the burgh, and a gift of two shillings to each priest or chaplain there on his obit day. This kindly churchman had already distributed much of his personal fortune among the poor in his parish, and he bequeathed the residue to "my poor friends."

In anticipation of the Reformation, the friars feued their lands to James Lockhart of Lee at a feu-duty of three bolls of meal,[3] and the entire history of their home centres round the competition for its possession. The manner of their expulsion from the burgh is unrecorded; but, in addition to Friar Thomas Lawtay who joined this friary from Haddington, one or more of their number are doubtless included in the Collector's entry relating to the twelve friars of Glasgow, Lanark and Kirkcudbright, who received their pensions in 1563.[4] The townsmen soon found a convenient quarry in the deserted buildings, and continued to carry off the stones for their own purposes until 1566, when the Lords of Council ordered George Tailzefeir, a mason, and other burgesses to restore and deliver "the samin stanis again to the said place (of the Cordeleris Freris of the burcht of Lanerk) quhair thai war takin fra to the effect libellat or ellis to pay the prices thairof, and alse to desist and ceise fra all forther demolesing of the said place," now in possession of

[1] *MS. Accounts*, Thomas Wilson, Chamberlain to the Earl of Arran, 1535, now preserved at Hamilton Palace.

[2] *MS. Reg. Confirmed Testaments* (Glasgow), ff. 21⁵a, 49 *b*.

[3] Charter unknown; partial Transcript in Crown charter to his son, *Reg. Mag. Sig.* (Print), 7th February 1587–88; *infra*, II. p. 158.

[4] *MS. Accounts*, *sub anno*, Div. XIII.

the Crown.[1] Meanwhile, in virtue of his infeftment by the friary Chapter, Lockhart of Lee had leased all or part of the lands within the burgh, and several of his tenants erected houses on their plots, although he had not as yet received a Crown confirmation of his charter. The position of these "maillers" was far from an enviable one, and the first to enlist our sympathies as a victim of the process of poinding by the four competitors for the friary between 1567 and 1571, was Robert Mure, the bonnet-maker of the town, and Lockhart's tenant-in-chief of the composite glebe. Like the parish priest of pre-Reformation days, the minister resorted to the full rigours of legal process to secure payment of rent for the crop of 1567 and 1568,[2] and intimated to the tenant that future payments would be secured by a series of annual poindings. As parish minister, David Cunningham had already received an assignation of the old friary annuity, and this further claim was based on the Act of 1567 which assigned the entire Thirds of Benefices for the ministry. The clue to these proceedings is the death of Friar Thomas Lawtay, the last survivor of the Chapter, which may be presumed to have occurred in 1566 when the last payment of his pension is recorded in the Collector's accounts, and the friary is described as being in the hands of the Crown.[3] Lockhart of Lee delayed entering with the Crown,[4] and the minister endeavoured to secure the rents from the bonnet-maker, whom he could not displace as "a kyndlie and lauchfull tenant" in terms of the Act of 1563.[5] The hitherto negligent Collector of Thirds,[6] however, vetoed the pretensions of the minister and executed a poinding against the tenant in respect of the three bolls of meal in 1569,[7] but not for the

[1] *MS. Reg. Acts and Decreets*, XXXVII. f. 136; *infra*, II. p. 150.

[2] Cf. similar proceedings by the minister of Ayr, in which the magistrates opposed his claim. *Charters of Ayr*, pp. 109–10, Ayrshire and Wigtonshire Archæological Society.

[3] *MS. Reg. Acts and Decreets*, XXXVII. f. 136.

[4] His son paid the composition required on entry in 1587: charter, 7th February 1587–88. *Vide* analogous case, Earl of Crawford, *supra*, p. 228.

[5] *Acts of Parliament* (Thomson), II. 540.

[6] He exacted the three bolls of meal, stipulated in the friary charter to Lockhart of Lee, for the first time in 1568. *MS. Accounts.*

[7] *MS. Accounts*, 1569.

rent of the crop to which neither he nor the minister had any right. A worse fate, however, awaited the luckless bonnet-maker. On 22nd March 1570–71, Adam Stewart, brother of Sir John Stewart of Minto,[1] received a Crown gift of the friary and its burghal yards,[2] and thereupon instituted successful proceedings against Mure in the Glasgow Burgh Court for the recovery of the rents since 1567, when Lockhart of Lee ought to have converted his title into a Crown holding. This right entered into competition with that of Lockhart of Lee, so that he, the lawful but negligent landlord, had no other alternative than to secure the rent for 1571 by diligence. The tenant's "ignorance and simplicitie for feir of the said horning" was now changed into despair, and the four claimants were summoned to appear before the Lords in an action of Declarator. Possessed of no legal right to the friary rents, neither the minister nor the "procurators for the kirk" appeared in the suit; while the Crown, in view of its recent charter to Adam Stewart, also entered no claim. The owners of the competing charters thereupon agreed to a compromise, whereby decree was given in favour of Adam Stewart, who, in turn, leased the subjects to Lockhart of Lee, at a rent now unknown[3]—"quhilk Laird of Ley wes takisman, at the leist tennent and maller, to umquhile Mr. Adam Stewart." Ten years later six other tenants of the friary lands experienced the fickleness of Scottish justice during the minority of James VI., when another favourite of the Court, Bernard Lindsay of Inglisberry Grange, commenced an action for their ejection on the strength of a Crown charter in his favour of the identical subjects conveyed to the now deceased Adam Stewart in 1571.[4] Their plea of possession for twenty years was met by the answer that they had paid their rents to the Lockharts; and, as that right received scant con-

[1] The royal Collector of the district.

[2] *MS. Precept, eod. die, Reg. Privy Seal*, XXXIX. f. 74. His charter was produced in the Court of Session, but has not been engrossed in the Register of the Great Seal.

[3] *MS. Reg. Acts and Decreets*, 14th April 1573, XLVIII. f. 382 *et seq.*, XCIII. ff. 9, 393, 418; *infra*, II. pp. 151, 156.

[4] *MS. Charter Reg. Mag. Sig.*, XXXV. 274; *infra*, II. p. 154. Relative Instrument of Sasine, 27th January 1580–81, *MS. Protocol Books*, T. Lindsay, XXXVII. f. 297, G. R. H.

sideration in relation to the charter of 1581, decree of summary ejection was given against the unfortunate occupiers who had erected houses on the ground embraced in their leases.[1] The Lockharts nevertheless maintained their claims; and, when the most eventful minority in Scottish history came to a close, two competing charters were granted, *periculo petentis*, the one to the son of Sir James Lockhart, conveying the site of the friary, its garden, yards and the Weitlandside acre, and the other to Bernard Lindsay conveying the whole property possessed by the Friars Minor—"the place, gardens and mansion, called the Freiris place of Lanark, and four acres of land pertaining to them, viz., one acre among the burgh roods of Lanark, between the lands of Andrew Lempitlaw and the deceased Andrew Blackie, one acre in the Mains of Lee, and two acres called the Vicar's croft in the Mains of Cleghorn, with five merks of an annual rent from certain tenements within the said burgh."[2] Ultimately, the chicanery of Court intrigue was swept aside by Parliament on 5th June 1592, when the rights of the Lockharts were fully recognised in regard to the subjects conveyed to them by the friars;[3] and in 1620 his successor sold to James Carmichael of Hyndfurd "that piece of waste ground where of old stood the mansion or dwelling-house of the Friars Minor of Lanark, with the stable on the east side thereof."[4] In regard to the disjoined lands in the burgh roods and the Weitlandside acre, the family was no less successful in vindicating its rights under the charter granted by the friars. On 15th August 1622 Sir James Lockhart acknowledged their redemption from him by his two sons;[5] so that, if the magistrates did not purchase Sir James Lockhart's rights, the "certane freirlandis, houssis, biggingis and tenementis liand within the territorie of the said burghe, whilk hes beine and ar brukeit by the said burghe and inhabitentis thairof past

[1] *MS. Reg. of Acts and Decreets*, XCIII. ff. 8, 393, 418; *infra*, II. p. 155.

[2] *MS. Reg. Mag. Sig.*, XXXVI. 455; XXXVII. 123; *infra*, II. p. 154.

[3] *Acts of Parliament* (Thomson), III. 639. Bernard Lindsay paid the feu-duty of three bolls of meal between the years 1585 and 1589; *infra*, II. p. 355.

[4] Instrument of Sasine proceeding on charter, recorded *MS. Part. Reg. Sasines* (Lanarkshire), II. f. 21, G. R. H.; *infra*, II. p. 158.

[5] *MS. Letter of Redemption*, recorded *ibid.* II. 90; *infra*, II. p. 159.

memorie of man," referred to in the charter granted to the burgh by Charles I.,[1] were those formerly in the possession of the *Fratres Egregii*.[2]

WARDENS

John Benyne, 1456.
Adam Ker, 1471.
Richard Inglis, 1490.
Thomas Fair, 1501.
Andro Quhithead, 1552, 1555–56.

[1] 20th February 1632, *Records of Lanark*, p. 325.

[2] The yard at the West Port belonged to these friars, and does not appear in any charter of the Franciscan lands.

Cordelière uniting the lily to the wing of the cygnet—emblem of Claude of France, first wife of Francis I.
Château de Blois.

CHAPTER VIII—(*continued*)

CONVENTUAL FRIARIES

Inverkeithing

During the latter half of the fourteenth century a Conventual habitaculum was formed at Inverkeithing, then the principal ferry port on the north side of the Forth,[1] and some unknown benefactor permitted the little community to occupy a tenement within the burgh that had formerly paid a tax of two shillings and fourpence to the Crown. The habitaculum was subsequently converted into a regular friary, in terms of the Bull of 1346, which empowered David II. to erect a second friary "far removed from the attacks of enemies,"[2] and it may have been in commemoration of this transformation that Robert II. remitted the payment of the royal tax. The entry in the Exchequer Roll of 10th March 1384[3] thus records the royal grant: "Paid by the bailies of the burgh of Inverkeithing, by the gift and grant of the King made in perpetual alms to the Friars Minor of Inverkeithing, from a certain tenement situated in the town of Inverkeithing, which the said friars inhabit, 2s. 4d.; so that the said tenement is otherwise free from all payment of this pension and from all secular burdens whatsoever." This house stood on the shores of the Firth of Forth; and there is good reason to believe that an ancient building known as the Palace now stands on the old friary demesne, if it does not also enclose a part of its buildings, because the boundaries of the area occupied by the Palace,[4] from the

[1] The right of ferry belonged to the Abbey of Dunfermline in virtue of a grant in its favour by David I.

[2] *Supra*, p. 26.

[3] III. 127. In the print of the Roll the date is erroneously given as 10th March 1364.

[4] "There still remains a vaulted kitchen (now subdivided), and to the south of this a circular stair, and close to the bottom of this a pointed arch with a concentric

street on the north to the foreshore on the south, correspond in general terms to those contained in the old title deeds of the friary. It is doubtless more than a coincidence that this building is to-day exempt "from all secular burdens whatsoever"—*i.e.* from the payment of burghal taxes. In view of the remission of the tax recorded in the Exchequer Rolls, and the improbability of a royal residence being converted into a friary, it is, however, impossible to accept the further tradition that the Palace was also one of the minor palaces of David II., and a residence of Queen Annabella, the consort of Robert III. At the Reformation the Chapter conveyed its friary and garden to one John Swynton,[1] and we learn from the Charter of Confirmation granted by James VI. in 1605 to Mark Swynton, Provost of Inverkeithing, that the subjects disponed by Warden Fluccar were "that place, tenement or hospital of Inverkeithing with the garden thereof by the bounds and marches underwritten, lying between the lands of Robert Dempsterstoun on the east, the *seashore on the south*, the lands of David Stanehouse on the west and the public highway on the north; which tenement or hospital formerly belonged to the Friars of the Order of St. Francis and the Convent of the Friars of the said place of Inverkeithing of that Order and diocese of St. Andrews."[2] The friars also acquired two disjoined acres of the arable land of Tofts, "of which the one lies among the lands of Hilfield belonging to the Constable of Dundee, and the other lies beside the Constable's lands of Mylnsid in the barony of Inverkeithing."[3] These lands were feued by the Chapter on 1st August 1560 to James Scott, the then tenant, at a feu-duty of thirteen shillings and fourpence.[4]

and higher rear or saving arch on the inner side. This probably led to a passage and by it to the street. At some distance from the houses, and in the garden behind them, are some ruins with vaults which have been referred to as the ruins of the Monasteries of the Black or Grey Friars." (Mr. Henry F. Kerr, *Trans. Edin. Arch. Assoc.*, III. 74.) The Black Friars never had a settlement in Inverkeithing.

[1] *Feu Charter*, 4th July 1559; original unknown, referred to in relative Crown charter, *infra*, II. p. 165.

[2] *MS. Reg. Mag. Sig.*, XLIV. No. 284; *infra*, II. p. 163.

[3] *MS. Feu Charter*, 1st and 3rd August 1560, *infra*, II. p. 161.

[4] *Ibid.*, and *Crown Charter of Confirmation*, 29th May 1565, *Reg. Mag. Sig.* (Print), IV. No. 1628.

So far as can now be ascertained, the annual allowance from the Exchequer was restricted to the remittance of the tax of 2s. 4d., but the passage of the ferry doubtless brought a considerable number of casual gifts into the friary coffers; and the Treasurer's Accounts disclose as many as thirty-seven gifts of fourteen shillings and upwards from James IV. between the years 1501 and 1513; while one churchman, Andrew Mudye, Chaplain of Cupar, left a legacy of twenty shillings to the friars.[1] Of the various deeds executed within this friary, the most remarkable was an official declaration by Johan Buty, dated 1st November 1424, denouncing as a forgery the charter of the burgh of Kinghorn alleged to have been granted by King William the Lion. According to the statement of this burgess, it had been revealed to him "oft times and mony" by his elders in the burgh that the charter had been written by a clerk to the order of certain of the burghers—who "war mast a tentty folk"—and that a seal which had been found in the "toun" of Orok had been attached to it. "And thus this fals charter was fyrst contrewfyt and maid."[2]

The only other event of general interest associated with the friary was the Provincial Chapter held within its walls under Friar John Yhare, Provincial Vicar, on 2nd August 1489,[3] when Friar John Lyle was the Warden. In 1486 and 1487 Friar William Younger had held the office; Friar William Sinclair attended the Provincial Chapter at Dumfries in that capacity in 1552; and the last Warden was Friar Fluccar, whose pension must have consisted of the feu-duties payable under the charters to their friends, as neither he nor any of his friars appear in the Collector's Accounts of any year.

[1] *MS. Reg. Conf. Testaments* (St. Andrews), 10th September 1549.
[2] *MS. Transcripts*, G. R. H.; *infra*, II. p. 167.
[3] *Supra*, p. 15.

CHAPTER VIII—(*continued*)

CONVENTUAL FRIARIES

Kirkcudbright

The eighth and last of the Scottish friaries which sprang from the mission of Agnellus to these islands was founded amid the sylvan groves of Kirkcudbright by James II. in 1455–56, at the time when he raised the town to the dignity of a royal burgh in commemoration of the overthrow of Thrieve Castle. It occupied a small area upon a headland formed by a bend in the River Dee, and is described in a Signet Letter of 1569 as "lying between the river and the sea on the north, the public road on the west and the land of Robert Forrester on the south."[1] In the lease granted by the friars in 1551, the friary croft and meadow are described as lying to the north of the burgh, between the croft of Walter Beithane upon the north and the common street called the Crek Gait that passes to St. Cuthbert's Kirk upon the south.[2] The church occupied the eastern portion of the ground overlooking the creek or harbour, where the school of Captain Hope now stands; and the ivy-clad ruins of the Castle of the Maclellans, partly built out of the deserted friary buildings and now known as Kirkcudbright Castle, mark the old western boundary of the demesne.

The charter of foundation, and the names of those who were associated with the settlement of the friars within the burgh have long since been lost; and there is now no more than a possibility that the editor of the *Bullarium* may disclose the Bill of Erection in his eighth volume. Before the middle of the fifteenth century, Kirkcudbright was doubt-

[1] *MS. Reg. Mag. Sig.*, XXXVIII. No. 105; *infra*, II. p. 170.
[2] *Hutton MSS.*, I.61; *Inventory of Writs of the Earl of Selkirk*, *infra*, II. p. 168.

less visited by the friars of Dumfries; and when their friendly hospitium was converted into a regular friary, it was placed under the Conventual régime, instead of being colonised by the Observatines who had recently settled in Edinburgh. For their support, James II. promised the brethren an annuity of ten pounds Scots, and the various entries in the Exchequer Rolls during the next twenty years entirely disprove the inference that the friary dated from the thirteenth century,[1] or that the well-known Friar, John the Carpenter, was a member of it. The first payment to the Chapter appears under date 17th September 1456, when forty shillings were received out of the proceeds of the Justice Ayre from the Chamberlain of Galloway as the King's alms; and, in 1458, the bailies of Kirkcudbright are stated to have paid £6, 13s. 4d. "to the Friars Minor of the said burgh newly founded by the present King" in part payment of £10 granted by him to them.[2] The remaining third of their annuity was regularly paid by the Custumar of the Stewartry conform to a precept under the Great Seal;[3] but in 1496 the friars appear to have lost their infeftment of the five merks, and the unfeeling Auditor intimated that no further payments would be made until it was produced. In their difficulty they appealed to the generosity of James IV., and the annuity was continued "by tolerance of the King," during 1498 and 1499 in spite of the Auditor's threats and orders. The share of the magistrates was drawn from the burgh fermes, and, although no payments are entered between the years 1465 and 1505, there is no reason to suppose that the civic authorities were more remiss than the Custumar. Agriculture would appear to have been neither an engaging nor profitable occupation for this community. In 1551, they leased their right of salmon fishing and croft for nineteen years to their "luffit friend Ninian Muirhead" at a rent of two merks;[4] and, in the following year, they converted the former lease of fifty-two

[1] *Supra*, pp. 36–37.

[2] See also entries for the years 1463, 1465, 1466, and 1476. Summary, *infra*, p. 257.

[3] *Exchequer Rolls*, 21st July 1466.

[4] *MS. Tack*, 11th September 1551, *infra*, II. p. 168.

acres of grazing ground in the lands of Spittelfield near Dumfries, into a feudal holding in favour of John MacBrair at an annual feu-duty of £5.[1] The rental was further supplemented by a chalder of grain and an annual income of £7, 15s., derived from a number of ground annuals constituted in their favour by certain donors now unknown.[2] At the Reformation, Friar James Cant, the last Warden, secured this revenue in payment of his pension, under deduction of the annual allowance from the customs of the burgh that passed into the "property account" of the Exchequer. The £7, 15s. derived from the annuals were expressly assigned to him as part payment of his pension until the account of 1572;[3] and his continuing interest in his old benefice may be gauged from the Precept of *Clare Constat* under which, as superior of the lands of Spittelfield, he infefted Archibald MacBrair in his father's feuholding on 16th June 1561.[4]

Remote from wars and civil turmoil, the featureless lives of these students of humanity furnish little that is of historical interest. In 1458 they received an allowance of ten shillings from the Auditors to celebrate masses for the soul of their royal patron;[5] and it may be presumed that, after his death at the siege of Roxburgh Castle, divine service was celebrated annually on his behalf. It is interesting to note that the transumpt of the royal charter, recently granted to the burgh, was certified in the friary church on 13th February 1467 by the Vicar of Kirkcudbright, as Commissary or Official of the Bishop of Galloway.[6] It was also on the high altar of the church that Philip Nisbet of Nisbet placed the redemption money of the lands of Carlestoune, at the risk of his creditor, Alexander McClelane of Gilestoune, who refused to accept this payment. Nisbet accordingly summoned him to appear before the Lords of Council in 1499, to shew cause why he should not grant a

[1] *MS. Abb. Feu Charter*, 5th July 1552, *infra*, II. p. 168. The rent under the lease had been fifty shillings.

[2] *MS. Accounts, Collector-General*, 1561, 1562; *Sub-Collector*, 1563–72.

[3] *Ibid.* [4] *MS. Instrument of Sasine*, *infra*, II. p. 169.

[5] *Exchequer Rolls*, VI. 548.

[6] This transumpt was confirmed by Charles I. in 1633 in place of the original which had been lost.

deed of renunciation of these lands lawfully redeemed at the high altar in the "freir Kirk of Kirkcudbright."[1] In 1501, James IV. visited the town in the course of his pilgrimage to the shrine of St. Ninian at Whithorn, and, with his customary generosity to the Franciscans, provided £5, 12s. for the purchase of an eucharist, in addition to a trifling donation of fourteen shillings six years later.[2] The history of active Franciscanism in Kirkcudbright was brought to a peaceful termination in the autumn of 1560; and the last Warden, Friar James Cant, is the only member of the Chapter who can now be identified in the post-Reformation records. In enjoyment of his pension, he conformed to the new religion, and was appointed by the Town Council under the title of Kirkmaster to take charge of his old kirk, after it had been selected as the parish church.[3] He was re-elected annually at a salary of three merks, supplemented by another merk for "mending and upholding the Tolbooth"; and in 1578 the Kirk Session authorised him to make a charge of "two shillings for every marriage, and twelve pence for the baptism of every substantial man's child and sixpence for the simple folks, the said Kirkmaster finding a form and book to the bridegroom and bride and conveying them to the solemnisation, and having a basin and towel to the baptism."[4]

The Town Council evinced little desire to enter into immediate possession of the friary or its church and crofts. They disregarded their duty under the order of the Privy Council to apply the friary rents and buildings for the maintenance of schools, hospitals and other godly purposes;[5] and even the request formulated by the General Assembly in June 1564, "for obtaining the gift of the Freirs' Kirk of Kirkcudbright to be holden hereafter as the Parish Kirk of Kirkcudbright," passed unheeded.[6] Consequently, in 1569, the Provost, Thomas Maclellan of Bombie, considering that the demolition of the deserted buildings would facilitate the

[1] *MS. Acta Dom. Concil.*, VIII. f. 150.
[2] *Treasurer's Accounts*, 22nd April 1501 and 19th March 1507.
[3] *MS. Burgh Records*, 23rd January 1576–77.
[4] *Ibid.* 11th June 1578.
[5] *Reg. P. C.*, I. 202.
[6] *Supra*, p. 151.

completion of his castle, obtained a blench charter from the Crown conveying to him the buildings, site and lands of the friary, on the narrative that "the place and church of the friars have for long time past been demolished and now lie waste, so that no benefit nor profit accrues to any one."[1] This alleged ruinous condition was nothing more than a plausible exaggeration suitable for the preamble of a royal charter granted during minority; and the shrewd provost found a site for his castle, and a quarry ready to hand, in return for an annual payment of one penny. His bailies regretted their former apathy; but they found that the friary church and that of St. Andrew could still be acquired by the excambion of a tenement known as the Peithouse, and a payment of two hundred merks and one hundred bolls of lime.[2] A disposition of the church and churchyard was accordingly accepted from Maclellan on these terms, under the further condition that growing timber should not be cut or removed from the churchyard; and the granter undertook to uphold the "queir or third part of the said kirk called the Freirs' Kirk, which is the east part thereof, for the parson's part,"[3] and to assist the bailies in compelling the inhabitants to maintain the remaining portions in "thack, tymmer and stanes."[4] The final clause of this deed illustrates the doubts of the contracting parties concerning the stability of the new faith in 1570—"it is further agreed that when reformation shall happen to come to the kirk and religion within the realm, so that the said Thomas may not lawfully warrand and defend the said kirk to the bailies, he shall return the purchase price to them, and they

[1] *Charter*, 6th December 1569. *MS. Reg. Mag. Sig.*, XXXII. No. 77: *MS. Reg. Privy Seal*, XXXVIII. f. 105, *infra*, II. p. 170.

[2] *MS. Burgh Records*, 9th June 1570.

[3] In pre-Reformation times, the proprietor of the teinds, whether the rector of the parish or a lay proprietor, was bound to pay for the upkeep of the choir, hence the designation, *parson's part*. Bishop David de Bernham of St. Andrews decreed in his constitutions of 1242 that it was the duty of the parochial clergy to keep the walls, windows and roof of the chancel of their churches in repair, but those round the church were to be put in order by the parishioners. He also decreed that the churchyards should be enclosed by walls, the portion extending round the chancel by the rectors, and the remainder by the parishioners. Robertson, *Stat. Eccl. Scot.*, II. 53.

[4] *MS. Copy Disposition* (imperfect), 24th March 1570, Burgh Charter Room; *infra*, II. p. 171.

shall surrender the infeftments following upon this disposition." The church of the friary was thus transformed into the parish church, and the cemetery was walled in—"quhairthrow bestiall is debarrit fra passin thairin, and sa is decent and honest for the said burial.[1] In the same year the Council followed the now general custom of forbidding interments within the parish churches under a penalty of £10 upon the executors—"that na person or personis be bureit or bidit in the paroche kirk of the said burgh, sumtyme callit the Freiris Kirk thairof";[2] but three years later they relaxed their veto to permit of the burial of their former provost and his wife, Lady Grizel Maxwell, in the vault underneath the old aisle. The beautiful monument erected over their grave by Robert, Lord Kirkcudbright, still remains intact, and the walls surrounding it in Captain Hope's school constitute the single fragment of the old friary church that survived the extensive alterations carried out in 1730.

Wardens of Kirkcudbright

Adam Scherynlaw, 1458.
John Fawls or Fawlow, 1465–76.
Andrew Russell, 1478.
William Yhonger, 1486–87.
Andrew Crummy or Crombie, 1491–95.
John Wardlaw, 1500–5.
Nicholas Bailye, 1510–16.
William Tennand, 1517–23.
John Blackburn, 1526–27.
William Sadlare, 1540–42.
Christopher Walker, 1551.
James Cant, 1552, 1558–60.

[1] *MS. Burgh Records*, 1590. [2] *Ibid.*

ROYAL BOUNTIES TO THE GREY FRIARS OF KIRKCUDBRIGHT

I. Exchequer Rolls

In acquittance of two-thirds of the allowance of £10 granted to the friary by James II. out of the customs of the burgh, payments of £6, 13s. 4d. by the bailies are recorded in the Rolls of 1458, 1505, 1508–10, 1513, 1515–18, 1527, 1540–41, 1556.

Multiple payments of this allowance are recorded: £46, 13s. 4d. in the Roll of 1465; £13, 6s. 8d. in that of 1507; £36, 13s. 4d. in that of 1523 for five and a half years; £15, 13s. 4d. in that of 1526; £80 in that of 1539; £60 in that of 1550; £33, 6s. 8d. in that of 1555.

In acquittance of the remaining third payable by the Custumar of Kirkcudbright, in terms of a precept under the Great Seal, payments of £3, 6s. 8d. are recorded in the Rolls of 1467–69, 1473–81, 1487, 1494–1500, 1504–12, 1516–18, 1523, 1526–27, 1532–35, 1537, 1540–42, 1551, 1555.

Multiple or fractional payments of the same are recorded: £1, 13s. 4d. in the Roll of 1554; £6, 13s. 4d. in those of 1463, 1466, 1471, 1483, 1491, 1493, 1503, 1515, 1520, 1539; £10 in that of 1486; £8, 6s. 8d. in that of 1523; £13, 6s. 8d. in that of 1531; £26, 13s. 4d. in that of 1550; £8 in that of 1554.

Incidental payments—

17th September 1456. Forty shillings from the proceeds of the Ayre as the King's alms.

14th July 1459. Ten shillings paid by Donald McLellane of Gilston, Steward of Kirkcudbright, for the soul of the King and by consideration of the Auditors for the present.

20th July 1512. Twenty shillings in alms by command of the Lords Commissioners.

23rd July 1517. Forty shillings in alms by the same authority.

II. Treasurer's Accounts

22nd April 1501. To the freris of Kyrkcudbricht be the Kingis command to buy thaim ane Eucharist, 8 Franch crownis, £5, 12s.

19th March 1507. To the same, 14s.

LIST OF CONVENTUAL FRIARS.

Friars.	Roxburgh.	Haddington.	Dumfries.	Dundee.	Lanark.	Inverkeithing.	Kirkcudbright.	Provincial Vicar.
John Affleck *alias* John Auchinleck	...	1543, 1557–58; W. 1560–72; died *circa* 1577	1555	...	...	...	...	...
Patrick Allan . .	...	1557–58, 1560; died *circa* 1578	...	...	...	...	...	...
Alexander Aweylle .	...	...	...	1482	...	...	...	...
Walter Bachil . .	...	...	1487; W. 1490	...	...	...	...	...
Henry Bald . .	...	1542–43	...	...	...	..	...	...
Nicolas Balye . .	...	1478	...	...	...	...	W. 1510–16	...
John Benyne . .	...	...	W. 1466–81	...	W. 1456	...	...	1474
John Blackburn . .	...	...	...	...	...	...	W. 1526–27; alive in 1556	...
Adam Blunt . .	W. 1296	...	...	...	...	...	...	...
Walter Bowland .	...	...	W. 1488–93	...	...	...	...	...
Henry Bowle . .	...	...	...	1454	...	...	...	...
John Borthik . .	...	1538, 1539	...	...	...	...	...	...
John Brown . .	...	...	...	W. 1560; died 1586	...	...	...	...
James Broyn . .	...	...	...	1482	...	...	...	...
John Cant *alias* James Cant	...	...	...	..	...	...	W. 1552, 1559, 1560–64; died *circa* 1578	...
Henry Cant *alias* Cairns	W. 1552–55–60–64; died *circa* 1587	...	...	...	...	...	...	...
John Congilton . .	...	1538–39–41–42–43; W. 1550–52–53–54–55–56–57–58–59	...	...	...	W. 1555 (?)	...	...
John Connell *alias* Connellson	W. 1501	...	...	W. 1517–18	...	...	...	1521, 1530, 1532

Andrew Crummy	...	...	...	...	...	...	W. 1490–91–94–95	...
Alexander Camiueille.	...	...	...	1482	...	...	...	...
John Cwyk	...	...	...	1482	...	...	...	...
Henry Cylma	...	...	...	W. 1482	...	...	...	...
David Esse	...	...	...	1482	...	...	...	...
Thomas Fair	...	1478	...	...	W. 1501	...	W. 1465–73–75–76	...
John Fawls or Faulow	...	...	...	...	...	...	...	...
Robert Fenton	...	...	W. 1460–65	W. 1462	...	...	...	1460, 1462
Thomas Field or Feyld	...	1478	...	W. 1464 (joint Warden with James Lindsay)	...	...	...	...
Andrew Fiffe	W. 1490	...	W. 1496–98, 1504–12–13	...	...	...	...	...
John Ferguson	...	...	...	W. 1521, 1526, 1532, 1557	...	...	...	1541, 1543, 1552, 1555–56–57–58–59–60–64–65–66
Mark Fluccar	...	...	...	...	...	W. 1560, 1564	...	...
Thomas Glen	...	1478	...	...	...	...	...	...
Andrew Haldane	...	...	W. 1501	...	...	...	...	...
Adam Harlaw	...	W. 1505, 1512–14–16–22–27–28–30–34–35	...	...	...	...	...	...
Robert Harlaw	...	...	{W. 1550} {Fr. 1557}	...	...	...	...	...
William Hepburn	...	1539, 1543	...	...	...	...	...	...
Charles Home	...	...	W. 1551–52–54–55–57–58–59–60 (designation continued until his death in 1588)	...	...	...	...	...
Robert Howgon	...	1478	...	...	...	...	...	...
George Hugo	...	1539, 1542	...	...	...	...	...	...
Richard Inglis	...	...	...	1471	...	...	...	...
Robert Inglis	...	...	...	...	W. 1490	...	...	...

LIST OF CONVENTUAL FRIARS—(*continued*).

Friars.	Roxburgh.	Haddington.	Dumfries.	Dundee.	Lanark.	Inverkeithing.	Kirkcudbright.	ProvincialVicar.
Andrew Ker	...	...	...	W. 1468	W. 1471	...	...	...
William Kerr	...	...	...	...	...	...	...	1438
Thomas Kynlocht	...	...	...	1482	...	...	...	...
George Law	...	...	1555, 1560–72	...	...	...	...	...
Thomas Lawtay	...	1559	...	...	1560	...	...	...
David Leslie	...	...	...	1482	...	...	...	...
James Lindsay	...	...	...	W. 1464–65–78 81–82–83	...	...	...	1466–67–69–78–79–82
William Lindsay	...	...	...	...	...	...	...	1389
Robert Little	...	...	1523–29–34–37	...	...	...	...	...
John Lyle	...	1478	...	1482	...	W. 1489	...	...
Richard Lyon	...	W. 1389	...	...	...	...	...	...
—— Martin	C. or W. 1235	...	...	...	...	...	...	..
John Moncur	...	1542, 1543	...	...	...	...	...	...
John Purro or Purrow	1560	1539	...	...	...	...	...	...
David Ray	...	1478	...	1482	...	...	...	...
Huchoun Rede	...	1478	...	...	...	...	...	...
Hugo Rede	...	...	...	1482	...	...	...	...
Andrew Russell	...	...	...	W. 1488 until 1512	...	...	W. 1478	...
William Russale	...	...	...	W. 1547	...	...	...	...
William Sadler	...	...	...	...	...	...	W. 1540, 1542	...
Adam Scherynlaw	...	...	...	...	...	...	W. 1458	...
William Sinclair	...	1539–41–42–43	...	...	...	W. 1552	...	...
Walter Smyth	...	...	...	1482	...	...	...	...
Herbert Stewart	...	...	W. 1530; Fr. 1555, 1557, 1560	...	...	...	..	...
John Straithaven	..	W. 1538–39–41 –42–43	...	...	...	...	...	...
John Tenand	...	...	...	1482	...	...	...	...
William Tenand	...	W. 1490	...	...	...	...	1517–18, 1523	...
Robert Thorbrand	...	1478	...	...	...	...	...	...

Christopher Walker	...	...	1555, 1557	...	...	...	W. 1551	...
John Wardlaw	..	...	...	...	...	...	W. 1500, 1503–04–05	...
Alexander Waus or Vaus	...	...	...	1482	...	...	...	...
Andro Whitehead	...	...	...	...	1552, 1555–56	...	...	...
Thomas Young	...	...	...	1459	...	...	...	...
William Younger	...	1478	...	W. 1477	...	1486–87	...	...
John Yhare or Yhair	...	1471; W. 1478, 1495, 1501	...	...	...	...	...	1489, 1490, 1501, 1503, 1509
Andrew de Douraid	...	W. 1309	...	...	...	...	...	...
Robert de Rotherley	W. 1301	...	...	...	...	...	...	...
Patrick of Hawyk	...	...	...	...	...	...	...	...
Philip of Dundee	...	1389; W. 1400	...	1513	...	...	...	...
Symon of Dumfries or Thomas of Dumfries	...	...	...	W. 1471	...	...	...	...
William of Annan	...	...	W. 1300	...	...	...	...	...
Thomas de Rossy								
John the Carpenter								
John Ireland, Warden of Dundee in 1556, when he signed a deed at Haddington or Dundee	Friaries unknown.							

CHAPTER IX

THE OBSERVATINE FRIARIES

1. Edinburgh—2. St. Andrews—3. Perth—4. Aberdeen—5. Glasgow—6. Ayr—7. Elgin—8. Stirling—9. Jedburgh

Edinburgh

In the history of Edinburgh we enter upon another phase of Franciscanism, more real as such but less intelligible to the laity of this century. It is the lifework of revivalists bent upon realising more completely the ideal life of St. Francis both within and without the friary. On the one hand, these enthusiasts detached themselves from all worldly interests, actual or contingent; and, on the other, by their personal merits as evangelists and missionaries, they won the recognition of the clergy, towards whom they maintained that attitude of respectful deference desiderated by their founder at a time when local prejudice and pride of caste threatened to neutralise the liberalism of the Holy See. In fact, the interest of the Scottish clergy in Franciscanism may be said to date from the foundation of the first Observatine friary in Edinburgh; and the most striking feature in the subsequent history of the Order, so far as it can now be reconstituted, is the continued support accorded to these friars by the more enlightened members of the Roman hierarchy. The reason is ready to hand. As the active missionaries of the large towns the Observatines became the yeomen of the Church, eager to enhance its prestige by their evangelical activity in the parish, and to protect its fair name by a rigid observance of their vows. The friar was ever ready to answer the call of the sick or moribund burgher; but he was no frequenter of public places. Friary discipline imposed

aloofness upon him. Hence, "on days other than holy days," whenever the friars were observed in the streets of the town, the people exclaimed in astonishment "the friars are going out, someone is dying."[1] Within the friary, no intercourse or meals with laymen were allowed, but on his journeys the friar was a favoured guest. St. Francis himself admitted a certain compromise in providing for his clothing and the care of the sick, for whom Scottish churchmen built infirmaries. We hear of the devout patron who contributed warm coverlets for the hospital pallets; and the chronicler pictures for us the high-born lady who fashioned the under and upper tunics, and deemed it an act of religion to spin the web of cloth within the year. Incidental to the possibility of attaining the ideal religious life amid these favouring conditions, *esprit de corps*, born of a friendly rivalry with the other Orders, no doubt strengthened Observatine discipline during a century that was marked by a gradual decline in ecclesiastical morality and scholarship. Nevertheless, it may be claimed on behalf of the Scottish Observatine, that his loyalty to the spirit of the Rule, to the tripartite vow of poverty, obedience and chastity, and in the last resort to his Church, constitutes one of the brightest pages in the history of Roman Catholicism in this country.

When Father Cornelius with his six associates arrived in Edinburgh in the year 1447, he found that the town desired his acceptance of a friary in a "conspicuous and conveniently situated portion of that metropolitan city," which had been acquired by the burghers under the lead of James Douglas of Cassillis.[2] The chronicler lays particular stress upon the magnificence of the ecclesiastical buildings which already occupied the southern slope of the valley of the Cowgate and Grassmarket. They seemed "not to be the dwellings of poor men but of the great ones," and so Cornelius—the *vir timoratae conscientiae* of the annalist[3]—refused to accept the buildings placed at his disposition, because St. Francis had ordered the friars to dwell in poor and

[1] *Ob. Chron.* [2] *MS. Reg. Mag. Sig.*, IX. No. 2; p. 61, II. p. 195.
[3] *A. M.*, XI. 321, No. 89.

neglected houses. Eight years later, however, "this despiser of the world" yielded to the representations of the Bishop of St. Andrews, who procured the incorporation of the friary into the patrimony of the Church under apostolic letters,[1] and thereafter gave it to the friars "to be occupied by them as pilgrims according to their Rule." It is by no means improbable that Father Cornelius did protest against the acceptance of stone buildings, as the Observance was still in its infancy, and these protestations were common occurrences in every country. Vacant chapels in the towns and in the country had been hastily converted to the use of its pioneers, and not a few Conventual friaries had been handed over to the Observatines, the permanent sources of revenue attached to them being renounced in the first vigour of their enthusiasm.[2] Nearly half a century was to pass ere they admitted the principle that the acceptance of churches of stone and lime, embellished with ornaments and furnishings, constituted no violation of their vow.[3]

From our native records we learn that the friary was a gift from the town and certain devout citizens.[4] It was accepted, in the Franciscan signification of the term, by Friar Richardson, who accompanied Father Cornelius from Holland, and became the most strenuous propagandist of the Observance in Scotland.[5] The site selected for the friary on the outskirts of the town was a plot of land which, in modern topography, is bounded north and east by the Grassmarket and Candlemaker Row.[6] In the middle of the fifteenth century, the houses of Edinburgh were confined to the crest of the ridge which runs from the Castle down to the Abbey of Holyrood, and the northern slope of the valley of the Cowgate was rough, uneven ground intersected by winding paths. The first city wall, erected in 1450, crossed the crest of the Castlehill at the West Bow and continued eastward behind the houses,

[1] *Supra*, p. 56, note 2. [2] *Infra*, p. 442.

[3] *Merentur vestrae*, 3rd January 1514–15.

[4] *MS. Reg. Mag. Sig.*, IX. No. 2, *supra*, p. 61.

[5] *Aberd. Ob. Cal.* Another of his companions was Friar Gerard of Texel, who died in 1473 when Warden of the Aberdeen Friary. *Ibid.*

[6] *Reg. Mag. Sig.* (Print), II. Nos. 2302, 1692.

slightly descending the slope until it included the ground now covered by the library of the Faculty of Advocates. The valley itself was still the peaceful *via vaccarum* traversed by the bestial on their way to and from the pastures beyond the Grassmarket and the road which ran from the West Bow to Tollcross, now the West Port.[1] The southern slope of the valley was entirely covered by religious houses and their grounds. At the extreme east, overlooking the little nunnery of St. Mary of Placentia in the Pleasance, was the Dominican Priory, from which the High Street was reached by the Black Friars Wynd. Immediately to the west of it was the Collegiate Church of our Lady in the Fields, with its domains extending southwards as far as the line of College Street. Farther west near the end of the Cowgate was the Maison Dieu, with its chapel of Mary Magdalene, now the only relic of these religious houses, while the Grey Friary completed the chain on the west. Its eastern boundary was a road then known as the Loaning,[2] that zigzagged down the north slope from the West Bow to the valley, and thence continued up the south slope past the east side of the hamlet of Mureburgh[3] on the south side of the Burrow Loch.[4] This road was the principal approach to Edinburgh from the south,[5] and, although it is described as the east boundary[6] of the friary in the fifteenth century, the Feu Charter granted by the magistrates to John Preston on 20th November 1567 indicates that a stretch of waste ground then divided the south portion of the eastern wall of the friary from the Loaning—"the piece of waist grund lyand at the Gray Freir Port within the toun wall langis the yaird wall of the said freiris, the samyn wall upoun the west."[7] This site was part of the lands of Highriggs, which

[1] *Reg. Mag. Sig.* (Print), II. No. 616, 2nd September 1458.

[2] Lonyng. *Ibid.* No. 2302. [3] Now the Sciennes.

[4] *Ibid.* Nos. 2302, 616; Disposition by Sir George Tours of Gariltoun, 17th June, recorded *MS. Books of Council and Session*, 20th August 1618—"the King's highway which leads from the said burgh upon the east side of the Seynis to the Burrow Muir."

[5] Leland, *Collectanea*, IV. 258–300. It followed the line of Candlemaker Row, Lindsay Place, Bristo Place, Bristo Street and Causewayside.

[6] *Reg. Mag. Sig.* (Print), II. 2302.

[7] *MS. Extracts, Town Council Register*, f. 115, Adv. Lib. Upon this strip of

extended from the Grassmarket on the north to the Burrow Loch on the south,[1] and were bounded east and west by the Loaning and the road leading from the West Bow to Tollcross.[2] The friary, therefore, occupied almost the entire north-eastern corner of the Highriggs;[3] but, owing to the custom of describing lands by their original descriptions without exception of the portions sold or feued in the interim, it is now impossible to interpret the Crown charter granted to the friars in 1479 from the titles of the lands of Highriggs. The charter implies that James Douglas of Cassillis had some interest in the site,[4] and that his rights were acquired by the town prior to the transference of the land to the friars in gift. The subsequent extension of the friary yards up to the crest of the south ridge of the valley was presumably the gift of some member of the family of Tours.

Most of the religious houses of Edinburgh, therefore, lay in an exposed position beyond the first city wall, the Grey Friary[5] and the Maison Dieu alone sheltering under the guns of the castle. Accordingly, the second city wall, known as the Flodden Wall, enclosed an area of ground comprised within a line drawn from the north-eastern boundary of the Dominican Priory along the southern limits of its yards and of those of Our

waste ground Preston and his successors erected the buildings which now line the west side of Candlemaker Row. It was also stipulated in this deed that this road, called the "commoun passage and calsay," shall be "of the samyn breid of ten elnis frie on all sydis."

[1] Now the West Meadows.

[2] *Charters*, 29th April 1388, 2nd September 1458, 17th June 1618, *ut supra.*

[3] Four tenements of land occupied the apex of the angle, and from the description of their boundaries we learn that they formed a part of the north boundary of the friary cemetery—"*de terra sive tenemento Wmi Hopringill, alias Loksmyth, . . . jacente sub muro castri apud ecclesiam Fratrum Minorum . . . inter terram Patricii Denune ex boreali et murum cimiterii dicte ecclesie ex parte australi, et terram Andree Ballerno ex parte occidentali et publicum stratum ex parte orientali*," *Charter of Confirmation* (*Reg. Mag. Sig.*), 23rd May 1483. *Vide* also *Charter of Confirmation* (*ibid.*), 25th October 1587, *Charters of St. Giles* (Laing), p. 161, and *MS. Protocol Books, Edinburgh* (A. Guthrie), 1565–68, III. f. 134. On Hopringill's ground, a Temple land with a frontage to Candlemaker Row was afterwards erected. *Vide Sasine in favour of William Smith*, 4th March 1562, *MS. Protocol Book* (A. Guthrie).

[4] Probably that of a feuar.

[5] It escaped pillage during Hertford's raid in 1544 on this account, and in 1573 the English General Drury placed a battery of his artillery upon its west or great yard during his attack on the Castle: *Diurnal of Occurrents.*

Lady in the Fields, across the Loaning west-north-westwards to a point about a hundred yards from the north end of the Vennel, and thence northwards to the Castle.[1] At the point where the wall crossed the Loaning a gate was built which became known as the Grey Friars or Bristo Port, and in 1618 as the Society Port;[2] while the continuation of the Loaning within the wall past the friary yards and church was described in 1547 as "a close way lytle inhabyted with peple."[3] The city was therefore spreading southward under the protection of the Flodden Wall, and the Cowgate was being built upon from the east end. In 1560, its causeway did not extend so far west as the friary, which was then reached by a rough uneven track. In 1562, however, during the conversion of the friary yards into a public burial-ground, the Town Council extended the highway "fornent the Grey Freris"; and, to facilitate access to the cemetery, spent a considerable sum of money in levelling the foreground, "casting bak of the muck and red and seiking of the ground," and in removing "ane greit hill of red lyand outwith and inwith the buriall yet[4] at the Gray Freris."[5] On the west side, the present wall running from the old iron gate, at the south-west corner of the graveyard, down to the Grassmarket, approximately indicates the limits of the friary yards; and, in the sixteenth century, they adjoined the tenements of the Laird of Innerleith and Katherine Dee. The friary yards were then divided from the back portion of Katherine Dee's tenement by a landmark known as the Friary Ditch, which touched the

[1] *i.e.* Drummond Street and College Street, the south wall of the Royal Scottish Museum, the *cul de sac* which separates Bristo Place from Lindsay Place, and thence in a straight line, passing along the front of the U.F. North Church through the aperture between Nos. 7 and 5 Forrest Road to the old iron gate at the south-west corner of the graveyard. Here it turned northward down to Katherine Dee's tenement, and then westward along the northern boundary of Heriot's Hospital grounds, whence it again turned northwards down the Vennel until it joined the Castle walls.

[2] *MS. Disposition*, Sir George Tours, *ut supra.*

[3] *Cal. Scot. Pap.* (Bain), I. 45. During the war the keeper of this gate—an old soldier—undertook to open it to Patrick Kennedy, who proposed a surprise attack on the Castle in English interests. The city only employed three night watchmen at this date.

[4] Gate.

[5] *Accounts of the Treasurer of the Royal Burgh of Edinburgh* (Print), *sub anno.*

second city wall at the point where it turned westwards as the north boundary of the grounds of George Heriot's Hospital.[1]

The internal configuration of the ground at the Reformation may still be reconstituted. The forewall divided the church and buildings from the Grassmarket, and the principal entrance adjoined the four tenements which occupied the north-east angle. From this gateway there was a passage to the church, which was oriented, and therefore stood at an angle to the street; while another led westwards to the inhabited buildings. The cloister was built against the south wall of the church, and overlooked the usual "greit zairde," which is vaguely described as bounded by the Loaning,[2] and extended up the slope to the mid wall.[3] On its east side were the friary garden and the east yard, or arable land of the friary. Immediately after the Reformation this yard was appropriated by one Rowye Gairdiner, a flesher; but the felonious instincts of this burgher were curbed by the magistrates who placed an arrestment[4] on the "hale cornys sawin be him upoun the ground of the eist yarde of the Grey Friars," and compelled him to consent that the crop should be "furthcumand to the gude toun and failling of the said cornys the avale thairof."[5] To the east of the church and south of this yard was the friary cemetery, which was converted into the public burial-ground, in accordance with the gift of Queen Mary;[6] and the progress of the repairs and improvements can still be followed in complete detail in the accounts of the burgh treasurer. These

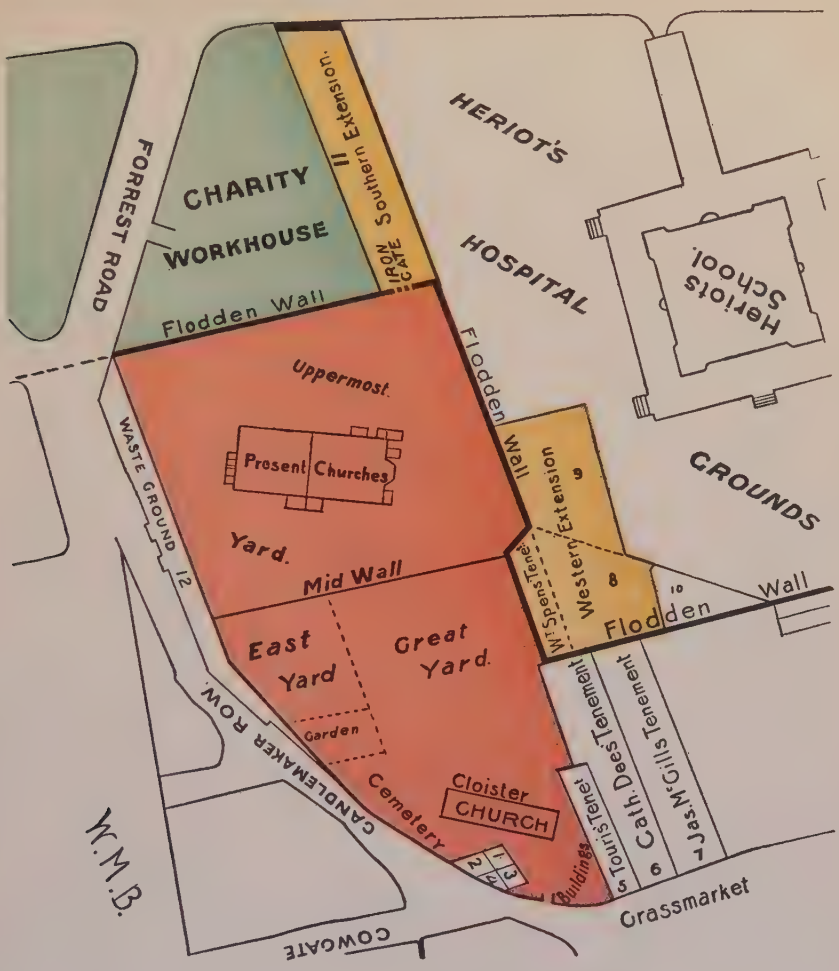
[1] *MS. Protocol Books* (Edinburgh), William Stewart, 1566–67, 25th July 1566, "*Ad terras posteriores quondam Jacobi Makgill cum horto . . . jacentes infra tenementum quondam Katherine Dee inter terram anteriorem eiusdem, tenementum et terras quondam Jacobi Makgill respective ex boreali, et murum dicti burgi et fossam Fratrum Minorum respective ex australi, et terras dicti quondam Jacobi Makgill ex occidentali, et terras Domini de Innerleith et dictam fossam Fratrum Minorum ex orientali partibus, ab una et aliis. . . .*" In Walter Spens' title in favour of the City, granted in 1807 (City Chambers, Box No. 9), the subjects are described as bounded on the *north* and *east* by the City Wall. This tenement was, therefore, only divided from that of Katherine Dee by the City Wall, and it was from this point that the wall turned southwards to the iron gate. *Vide* notes to plan.

[2] *Reg. Mag. Sig.* (Print), II. No. 1932, 14th February 1490.

[3] *Records of the Royal Burgh of Edinburgh*, 27th August 1562.

[4] 22nd August 1562. [5] *Ibid.* [6] 17th August 1562.

GROUND PLAN OF THE EDINBURGH FRIARY



EXPLANATORY NOTES TO PLAN

THE site of the friary lands is coloured *red* on plan. At the north-east corner were, in 1483, four tenements (*Ch. of St. Giles*, p. 161) :—

Nos. 1 and 3. Andrew Ballerno's interior and anterior tenements. Over the former, Tours of Inverleith granted an annual of 14 merks to the Altar of St. Anne in St. Cuthbert's Church.

No. 2, tenement of William Hopringill, *alias* William Loksmyth. In 1562, and in 1567, it is called a tenement of Temple land (*City Prot.*, A. Guthrie, II. f. 29 ; and III. f. 134). In a Sasine of 1817 (*Peter Spalding, MS. P.R. Sasines, Edin.*, 805, f. 9) the subjects are described as the easter and wester tenements of Temple land, the former "pertaining to the deceased William Steill, Merchant burgess of Edinburgh, lying at the head of the Cowgate near the Cunzie Nook, beside the Minor or Grey Friars on the

east, and the common king's high street on the north parts." The "Cunzie Nook," which a few years ago was pulled down and rebuilt, was a timber-fronted house lying south of this Temple land. Its picturesque appearance is depicted in Drummond's picture of the "Porteous Mob." This building was erected after the Reformation on the northern portion of the friary cemetery, and, therefore, was not the scene of the seizure of the royal coining "irnis" in 1559, as stated by Sir Daniel Wilson. The "Diurnal," which he himself quotes, shows that the "irnis" were kept at Holyrood at this date.

No. 4 was a tenement belonging to Patrick Denune.

There were no buildings abutting on the Friary Yards south of Hopringill's tenement (No. 2), and the friary wall extended thence southward to behind the aperture between Nos. 5 and 7 Forrest Road, where it joined the Flodden Wall.

For some reason, the Governors of Heriot's Hospital feued the north-east angle or gushet (Nos. 8 and 10 on plan) of their 8½ acres, and in 1786 the magistrates obtained Parliamentary powers to acquire this ground as an extension to the graveyard. It was known as Friarschaws' garden, from the local designation of the feuar. Possession was delayed through litigation until 1807, and in the titles (*43 in number in Box 9 in City Chambers*) the Flodden Wall is described as forming the *northern* boundary; while, in that of Walter Spence in 1807, the Wall also appears as the *eastern* boundary. The course of the Flodden Wall may now be held to be definitely fixed. Under a mutual agreement on 17th April 1791 (*Records, Heriot's Hospital*), the magistrates excambed plot No. 10 for that marked No. 9 belonging to the Hospital, the city paying a feu-duty of one shilling annually in addition to that of twenty shillings for plot No. 8

The strip of ground forming the southern extension (No. 11) was originally walled off, and described in all the titles down to 1869 as "the grass yards." Nothing is known of its early history beyond the fact that, after the destruction in 1718 of the ugly tower of Old Greyfriars Church—which had been utilised by the city as a repository for gunpowder—a new repository was erected at the south end of the Grass Yards; and in 1731, when the city leased the ground east of Heriot's Hospital as a Charity Workhouse, the right of entry to this building through the Grass Yards was reserved (*City Records*). There must, therefore, have been a doorway in the eastern wall, behind the present drill hall. In 1679 the Grass Yards served as the prison for the unfortunate Covenanters, and the door round which the guards were placed must have been that above referred to. It was only in 1705—twenty-six years afterwards—that this strip of ground was first used as a cemetery (*Burgh Records*, XXXVIII. p. 162), and there can be little doubt that it was at this date that the present iron gate, with its stone archway and funereal decorations, was erected. This gate, therefore, had no connection with the Covenanters or their imprisonment. On 11th January 1804 the Town Council continued to dealers in gunpowder the right to make use of the repository; but it was afterwards swept away, and the whole ground devoted to the purposes of a graveyard. In the reconveyance to the Parochial Board in 1869, it still appears, however, under its old designation of the "Grass Yards."

were carried out in 1562–63, and included a "stark yet for owthalding the bestis"; while a few years later a load of lime was provided "to mend the greit hole in the buriall dyke quhair the folk young and auld clam in and furth" from the highway.[1] To the south of the "greit zairde," and separated from it by "a ruinous and falty dyke callit the myd dyke,"[2] lay the uppermost yard[3] which extended south to the Flodden Wall already referred to.[4] It was probably used as pasturage for the cattle which the brethren possessed; but, whatever may have been the uses to which it was put by the friars, the magistrates decided to lease it to Sir Symon Preston on condition that the burghers were permitted to use it as a recreation ground, and to hold their wappinschaws or other meetings upon it. The knight undertook to cause "big and reparall the myd dyke now cassin downe and dekayit siclyk as it wes of befoir and of als greit heicht betuix the buriall place and the said yeard," and, in its east wall facing Candlemaker Row, to "strek furth and caus big ane dur and entrie to this yeard . . . quhilk dur salbe patent to all the nychtbouris of this burgh to periurnie, gang, rest and pas thair tyme in the yeard foresaid gratis."[5] Such then was the extent of ground denoted by the place-name Greyfriars in the middle of the sixteenth century; but it was soon to receive a more extended meaning. In 1618, Sir George Tours of Gariltoun conveyed to the city, in return

[1] Candlemaker Row.

[2] A portion of this mid-wall, which Sir Symon Preston undertook to repair, has been erroneously identified by Kincaid as a section of the Flodden Wall. *Trans. Edin. Arch. Assoc.*, II. 170, 171.

[3] This yard did not form part of the original site of the friary.

[4] There has always existed considerable doubt as to the course of the Flodden Wall between Bristo Port and the northern portion of the grounds of Heriot's Hospital. Maitland asserts that the wall, after bounding these grounds on the north, "passeth *through* the Greyfriars Churchyard to the Bristo Port," and in this he is followed by Arnot and Kincaid; but the lease of the uppermost yard in favour of Sir Symon Preston and the title to Walter Spens' tenement both confirm the statement (*supra*, p. 267), that the Flodden Wall enclosed the whole of the friary yards, as it did those of the Black Friary and of the Kirk of St. Mary in the Fields. The uppermost yard comprised the southern portion of the present graveyard, including the site of the two churches known respectively as the Old and New Greyfriars; and, from the record, it was situated within the city walls. Its northern boundary, the ruinous "mid dyke" above referred to, was not a part of the Flodden Wall, but the south boundary of the original site of the friary.

[5] Every honest citizen had the right to have a key made at his own expense. *Records of Edinburgh*, September 1566.

for 9000 merks, ten acres of his lands of Highriggs, the subjects disponed being bounded on the north by the Flodden Wall—"the Town wall of the said burgh from the turn and west round of the said wall to the Society Port upon the north."[1] Eight and a half acres[2] of this land were sold by the town to George Heriot's Hospital in 1628, while the remainder was afterwards conveyed to Trustees on behalf of the Charity workhouse. A small strip west of the workhouse was portioned off as an addition to the graveyard.[3] It was here that the unfortunate Covenanters, to the number of 1184, were imprisoned after the battle of Bothwell Bridge; and the inhumane treatment accorded to them during their exposure to wind and weather "in ye Greyfriars and Heriots Hospitall" is vividly illustrated by the daily allowance of a penny loaf to each prisoner.[4] The Charity workhouse did not, therefore, occupy any portion of the acres formerly belonging to the Grey Friars of Edinburgh; but within the burial-ground of these friends of the poor the paupers from the workhouse were for long interred by their Master;[5] and it is not without interest to observe that George Buchanan and Sir Thomas Craig also found a last resting-place in the east yard[6] of the friars whom they had held up to obloquy.

Returning to the infancy of the Observance in Edinburgh,

[1] *MS. Disposition*, by Sir George Tours, *ut supra*, note 4, p. 265.

[2] *MS. Records of Heriot's Hospital*, 4th May 1628, for 7600 merks.

[3] Now known as the south burying-ground. The south boundary in 1799 was, and still is, a part of the third wall which also bounded the yards of the Charity workhouse on the south.

[4] *MS. Treasury Warrant*, 1679, and *MS. Accounts of Provision supplied to Prisoners*, from 25th June to 15th November 1679, G. R. H. From 25th June to 1st July they received 100 bolls of meal, worth sixteen shillings Scots, baked by the baxters of Edinburgh and Canongate. On 3rd July the allowance was one pound weight of biscuits, and from 4th to 10th July they were again served with meal instead of bread. The gradual diminution in their number can be traced through this account until 210 remained on 15th November.

[5] From June 1847 there is a payment by the Town Council to the Parochial Board of £52, 10s., described as an annual allowance "in lieu of their alleged rights to inter paupers" in the old friary yards (*MS. Search, Burgh Chambers*). Revoked in 1868–69 (*Bks. of C. and S.*, 22nd January 1869; City Chartulary, 18, f. 162).

[6] The lower part of this yard was utilised as the common burial-ground for malefactors, etc., among whom were included the Covenanting martyrs during the Episcopalian ascendancy.

Father Hay speaks of the rapidity with which "the fame of Cornelius and his associates spread in every direction," and some confirmation of this immediate popularity is offered by the decision of James II. to provide for the extension or repair of the friary in 1458–59. On this occasion, the state of the royal exchequer necessitated recourse to a loan of £200 from one Nicolas Spethy, a burgess of the town, "for the reparation of the place of the Friars Minor."[1] The campaign against Roxburgh and the constitution of a regency afford some explanation of the delay in the application of this loan. During the lifetime of James II. £100 had been given to the friars, a second instalment of £50 was paid in 1464, and the remaining £50 was to be paid at some future date, because £50 out of the loan had been assigned to the Queen-mother for the requirements of another religious house in which she was interested.[2] No description of the friary has been preserved; but at this date it is improbable that it possessed a regular church within its precincts, an oratory sufficing for the devotions of the brethren. In 1464, however, during the wardenship of Father Crannok[3] the clergy of St. Giles acquiesced in their natural desire to obtain possession of a church or chapel to which the citizens might resort. Accordingly, they transferred to the friars the Chapel of St. John the Baptist situated outside the West Bow, under the wall of the Castle upon the west side of the track that wound down the north slope of the valley to the Grassmarket.[4] The exact site of this chapel, the period of time during which it served the purposes of a

[1] *Exch. Rolls*, 27th July 1463. As money-lender to the Crown, this burgess may be considered the prototype of the better known George Heriot.

[2] *i.e.* the Trinity College Church.

[3] The successor of Cornelius and a former physician of James II.

[4] *Charter of Confirmation*, Sir John Tours of Inverleith, 2nd September 1458; *Reg. Mag. Sig.* (Print), II. No. 616. This chapel must not be confounded with the chapel of St. John the Baptist founded in 1512–13 by John Crawford, Prebendary of St. Giles, in the Sciennes on that part of the Burgh Muir which then formed part of the Grange of St. Giles. This will be readily recognised as the former suburb of the Sciennes which was called "the Mureburgh newly built" and occupied the rising ground behind the Burrow Loch (*ibid.* No. 3818). Four years later, the chapel in the Sciennes, with its patronage and possessions (*inter alia*, 22¾ acres of land, of which 4¼ acres formed part of the Burgh Muir), was transferred to the nunnery of St. Catherine of Siena, and thenceforth this hamlet became known as the Sciennes instead of as the Mureburgh.

friary church, and its fate when abandoned by the friars prior to the year 1490[1] are wholly unknown. The charter granted to Sir John Tours in 1458, and the disposition of the chapel to the friars by Vicar Forbes of St. Giles alone affirm its existence:

> "To all the sons of Holy Mother Church to whose notice these letters shall come, William of Forbes, Canon of Aberdeen, and perpetual Vicar of the parish church of St. Giles of Edinburgh in the diocese of St. Andrews, greeting in the Universal Saviour. Whereas I learn from the venerable Father, Friar David of Carnok of the Order of Minors, that he and the friars of the said Order desire to war for God in the church or chapel of St. John the Baptist, belonging to my church, situated outwith the burgh of Edinburgh, and to serve Him according to the grace which may be given them from on high, conformably to the Rule of the Friars Minor of Observance handed down to them by St. Francis—which they are unable to do without my consent: Wherefore, the said Friar David on behalf of the whole Order earnestly besought me to yield my consent for the sake of divine charity and the increase of godliness. Whereupon, I, Vicar aforesaid, recognising the justice of this petition—in observance of the duty laid upon me by the canons of the Sacred Councils to establish our holy religion and to cherish it by every means in my power wherever it is planted—homologate the consents given by those having interest in the premises, and charitably give and assign, from me and my church, to God and our most blessed father the Pope of Rome, the said place in length and breadth as it lies with its commodities and easements for behoof of the said friars, so long as they may desire to occupy it. Protesting that, if it be not occupied by the foresaid Friars of Observance for these purposes, the said place with its former liberties, commodities and easements shall revert to me and my successors."[2]

No record now survives of the original provision made for the material sustenance of the friars, as the Roll of 1463 merely indicates that it was the "Custumars" of Edinburgh who paid them the stipend allotted by the Crown. Twenty-six years later we learn that they had been accustomed to receive "by his majesty's special command" a weekly allowance of fourteen loaves of bread, beer and kitchen provisions to the value of ten shillings.[3] During the plague of 1505 a boll of wheat was sent to them by the Chamberlain of Ballincreif; in 1516 the Regent Albany sanctioned a contribution

[1] *Reg. Mag. Sig.* (Print), II. No. 1932.

[2] This grant was confirmed by Bishop Kennedy of St. Andrews on 26th November 1464; *Charters of St. Giles* (Laing), No. 81; *infra*, II. p. 200.

[3] *In esculentis et poculentis*, *Exch. Rolls*, 25th July 1489, and 1st July 1490.

of thirty bolls of barley; and, from the Roll of 1522, it is evident that their victual stipend had previously been twelve bolls of wheat as entered in "the diet books of the King." From 1525 onwards, the royal alms in victual were raised to one chalder of barley and a half chalder of wheat, and in 1555 the Queen Dowager granted a precept for one chalder of each kind of grain. During her daughter's minority, they also received an additional allowance of £20 as the alms of the Governor, dating at latest from the year 1546;[1] and the royal alms were also frequently supplemented by gifts of pigs from Shetland and marts from Orkney to be killed and salted for provisions during the winter.[2] Incidental payments from the privy purses of James IV. and James V. are of the same value, although apparently less numerous than those made to other friaries. The merciless destruction of the city records during Hertford's invasion in 1544, when the Grey Friary escaped destruction, deprives us of any information concerning the previous extent or duration of the municipal grants. From the year 1552, however, there is abundant evidence to illustrate that the friary received material support from the Town Council. Along with the Black Friars, the Observatines were employed by the magistrates to preach in the streets of the town; and for these services each Chapter received a half last[3] of sowens beer, a drink much used by the labouring classes, and consisting of sour beer mixed with the fluff or refuse of oatmeal. The value of this grant varied from £6 in 1552 to £9 in 1557, and on occasion it was increased to one last each. For some years, also, the Grey Friary received special grants of £4, £5, or £6, "be ane precept," and for incidental repairs to the friary the burgh treasurer paid £4, 16s. to one Patrick Boyman of Leith "for ane dosane eistland burdis."[4] The extent of the burgher's charities is now purely conjectural; but some entries in the records of the Guild of Hammermen of Edinburgh are extremely

[1] *Supra*, p. 82, note 2.

[2] 1518, a mart and a pig . . . . . 18s.
1532, 4 Orkney marts . . . . . 48s.
1536, 6 do. do. and 4 pigs . . . . . 96s.
1536, 6 carcases of pigs . . . . . 36s.

[3] Six barrels.

[4] Summary, *infra*, p. 286.

significant of the widespread support which the Observatines received from this substantial section of the community—"To ye Gray Frars at ye masteris qumand *as other craftis dois* xx shillings."[1] Of testamentary charity we learn but little. Among the churchmen, Gavin Dunbar, Archbishop of Glasgow,[2] left ten merks to this friary as a share of his legacies to the Scottish Observatines, and Rector Burnet made a similar donation towards the end of his life.[3] Among the pious donations of Sir William Cockburn of Scarling were five merks and a load of wheat to the Friars Minor of Edinburgh in 1552;[4] while John Lindsay of Covington[5] and Alexander Hume of Redbraes[6] each left a legacy of forty shillings. For their own support the friars doubtless procured a certain amount of food and money by mendicancy, although Father Hay would have us believe that their larder was wholly provided for by unsolicited charity. Their glebe was devoted to pastoral uses, and we learn that the Comptroller paid them £11, 8s. in 1527 "for six barrels of suet" sold to the King. In Edinburgh, as in the other towns and burghs where the Observatine and Dominican friars worked side by side, the distinctive feature of the Franciscan was his uniform refusal to accept any annual rents as endowments for the celebration of masses for the dead;[7] and the records compiled under the new régime thus enable us to reflect upon the precarious nature of the Grey Friars' resources, compared with those of the Black Friars. The sole legacy of the former to the town was the friary buildings and yards. On 12th June 1560, the Council was already on the alert to preserve the stones of the ruined churches "for the commoun werkis." Four months later the Dean of Guild was directed to prevent further pilfering by the townsmen and, in particular, to

[1] *The Hammermen of Edinburgh*, pp. 97, 99, 104, 106 (John Smith).
[2] *MS. Reg. Conf. Testament* (Glasgow), f. 21⁵a.
[3] *Aberd. Ob. Cal.*
[4] *MS. Reg. Conf. Test.* (Glasgow), f. 69a.
[5] *Ibid.* f. 59a, 15th August 1551.
[6] *Hist. MSS. Commission*, p. 76, 14th Report.
[7] The nearest approach to an endowment of this nature occurred in Glasgow, where Rolland Blacader, Subdean of the Cathedral, directed his chaplain to pay six pennies for each of the twenty-two masses to be celebrated on his obit day, ten in the Grey Friary and twelve in the Black Friary; *infra*, p. 346.

recover the stones which four of them had removed; so that they "be brocht with all deligence and transportit fra thair warkis and placis foirsaidis to the kirkeyaird of this burgh for bigging of the dikkis of the samyn and otheris warkis quhilk thai ar preparand within thair said kirk and als to cause certane men cast doun the rest of the said places yet standand . . . and this to be done with deligence possiball because the saidis stanis ar all stollyn away and intro-mettit with be divers personis, incontrair thair proclama-tionis maid thairanent of befoir."[1] As a contemporary illustration of the amenities of language even in official documents, we may note that another depredator, William Ramsay, was ordered to build up the hole which he had made in the "Gray Freir dyke," and, in the favourite de-scriptive phrase of Knox, to pay the expenses of the town's workmen during the three days they were occupied "in the thevis hole."[2]

From the Black Friary the town derived greater benefits. Its site and buildings were also swept into the Common Good of the city,[3] and a large part of the annual revenues was assigned to the magistrates from the Thirds of Benefices, as endowments in support of their hospital for which a Crown Charter of the Collegiate Church and Hospital of the Holy Trinity was granted on 12th November 1567.[4] For Francis-can history, however, the importance of Prior Bernard Stewart's rental,[5] and the assignation of the ground annuals comprised in it, lies in the fact that it facilitates the correction of an error made by the scribe, who copied into the Town Council Register of Edinburgh[6] a charter under the Great Seal granted by

[1] *Records of Edinburgh*, 14th October 1560.

[2] *Ibid.* 22nd April 1562.

[3] The first intention was to erect a hospital for the poor on the site, but this idea was abandoned, and in 1583 the City High School was erected instead.

[4] The entire burghal ground annuals, amounting to £74, 12s. 6d., were so trans-ferred (*MS. Accounts, Sub-Collector*, 1568), and, of the non-burghal ground annuals, formerly in the possession of the Dominicans, £37, 13s. 4d. can now be ascertained to have formed part of the original Trinity College Fund which still continues its rôle of benefactor to indigent citizens. The hospital as such has ceased to exist. *Vide infra*, p. 283, *re Accounts of the Edinburgh Collector of Kirk Rents.*

[5] *Infra*, II. pp. 373–77.

[6] Guthrie's *Inventory*, *sub* "Kirk Livings."

James III. on 14th May 1473[1] to the Provost and Council of Edinburgh, confirming all previous mortifications granted or homologated by his predecessors for the support of the Black Friars of Edinburgh. In this transcript the copyist has uniformly written Grey instead of Black Friars; but his error is completely established by a collation of the original charter with the copy and the rental of Prior Stewart. Each of the five annual rents in question[2] is described in identical terms in the original charter and its copy; while the rental proves continued possession by the Dominicans until 1560, and so disproves an apparent infraction of the Observatine Rule by the friars of Edinburgh.[3]

[1] *MS. Reg. Mag. Sig.*, VII. No. 289.

[2]

Charters.	*Rental MS. Books of Assumption.*
An annual rent of ten merks furth of the burgh maills. (This allowance was made to the Black Friars by Robert II. long before the Observatines settled in Edinburgh.)	G. R. H. Item of the customes of the toun of Edinburgh, x merks.
The gift of Lord Seton, with the consent of Christina Murray, his spouse, of an annual rent of twenty merks furth of the lands of Hertisheid and Clintis.	Item, of Hartisheid and Clyntes, xx merks.
By Philippa Mowbray of Barnbugall of an annual rent of 20 shillings sterling furth of the lands of Littill Barnbugall.	Item, of Litill Barnebowgall, xx shillings.
By John Berkeley of Kipps of an annual rent of 10s. yearly furth of the lands of Duddingstone.	Item, of the Laird of Boward's lands in Duddingston, x shillings.
By James Finguid of an annual rent of 13s. 4d. furth of his land in Leith.	Item, of Finguid's land, now John Carketill's, 13s. 4d.

[3] Guthrie repeated his mistake in copying a decree obtained by the town against Alexander Aitchison of Gosford to enforce payment of an annual rent of £16 out of his lands. This annual also appears in the Prior's rental; in the *Exchequer Rolls* of 1557 and 1559 continued possession by the Black Friars is proved in terms of the charter granted by James III.; and, in the post-Reformation Rolls, it is described as "ane annual rent quhilk vas vont to be payit furthe of the maillis of Gosfuirde to the Blakfreris" (*Exch. Rolls*, XIX. 25, 98; XXI. 407). Owing to a mistake in his authority—a late inventory of titles—Sir D. Wilson has erroneously identified (*Memorials*, II. 65, 2nd ed.) certain land in South Gray's Close as having belonged to the Grey Friars. The granters of the feu of 1456 were not Grey Friars. A detailed examination of the eighteen extant volumes of the registers compiled by the notaries in Edinburgh, 1501–60, confirms the

Concealed behind an all but impenetrable cloud of anonymity, little is known of the personality of the Wardens or friars who studied in the schools or passed a period of their brotherhood at Edinburgh.[1] The provincial seminary of philosophy and theology was established here at some unknown date;[2] and Father Hay tells us that, after his arrival in Edinburgh, Cornelius gathered round him many Scotsmen from the Universities of Paris and Cologne. As the parent house of the Observance, it was the custodier of the provincial seal and the customary residence of the Provincial Minister, as well as of the Visitor who corrected the province on behalf of the ultramontane Vicar General.[3] Within its walls Robert Reid, Bishop of Orkney and founder of the University of Edinburgh, received the Cistercian habit and anointment as Abbot of Kinloss, at the hands of that generous Observatine patron, Gavin Dunbar, Bishop of Aberdeen; and thirteen years later, when promoted to his See, there is reason to believe that Bishop Reid was also consecrated in the friary church.[4] Of the friars themselves, we know that Thomas Johnson died while battling with the pestilence that ravaged the country in 1545;[5] and the names of George Lythtone, Andrew Cairns and Ludovic Williamson, who all abandoned the guidance of the province in their extreme old age, alone survive to indicate the regard in which Edinburgh was held, as well as the custom of burying distinguished members before the high altar of its friary church.

The activity of the Scottish friars among the poor and the sick is probably the most obscure chapter of their history. In the golden age, Friar Leo dwells upon his master's love for the leper and the beggar; but the chroniclers of later days no longer illustrate the perfect Franciscan from his solicitous care of the unfortunate victims of plague, pestilence,

total absence of Observatine annual rents. Innumerable infeftments in favour of the Black Friars and the other religious bodies in the town appear in these volumes.

[1] The *Exchequer Records* disclose the names, and even the University degrees, of many Conventual Wardens who signed the receipts for their money allowance. Not a single receipt granted by an Observatine Warden appears in these records; but, on occasion, their factor or procurator is recorded as the consignee of the victual allowance.

[2] *Ob. Chron.* [3] *e.g.* Visitations of 1471 and 1504, *infra*, p. 310.

[4] *Chron. of John Smith, Records of Kinloss*, pp. 11, 50. [5] *Ibid.* p. 11.

famine and invasion. To refuse the proffered alms because there was one who had greater need of them than the friar, to abandon the coarse grey habit that some wandering beggar might have shelter from the cold, or to sell the friary Testament in order that a poor woman might have food to eat, are salient examples of personal abnegation that could flourish only in the period of idealism;[1] but we seek in vain for kindred eulogies of the friar either in the chronicle of Father Hay, or in the *Aberdeen Obituary Calendar*, where the scribe records the Franciscan virtues most appreciated in his day. Then, as now, the picturesque charity of the Poverello had become subordinated to the fetish of theology and the minutely ordered life imposed upon the churchman. Nevertheless, pauperism was a problem of ever-increasing gravity; the number of the "cauld and hounger sair, compellit to be ane rank beggair,"[2] increased to an alarming extent; and the conditions under which they were compelled to live can scarcely now be realised. Considered from the practical, or objective, point of view, the limited resources of the friary were naturally incapable of supporting any part of the pauper population, and we must therefore regard the friar more as a worker among the poor than as their munificent benefactor. For this rôle he was pre-eminently fitted by his severe training in the school of self-denial; and, whatever may have been the degree of his enthusiasm in the task, his contemporaries were not slow to recognise him as "the friend" or "the father of the poor." That is to say, the Franciscan took a prominent, if not the leading, share in battling with disease,[3] and the Grey Friary became a centre to which a section of the hungry poor looked for the food that the friars procured for them from the more wealthy members of the community. Thus, the practical and devout Vicar of Greenlaw entrusted the administration of his almshouse to the Franciscans of Haddington, and

[1] *Spec. Perf.*, caps. 12, 17, 19, 29–38. [2] Henryson.

[3] Cf. Friar John, *Romeo and Juliet*, Act v. Scene 2. In their combat with the Black Plague more than half of the Franciscans in Europe perished in their efforts to assist the stricken. They "perished literally by thousands through their devoted attention to the sick and the dying. Here there is no room for detraction." *M. F.*, II. xxiv.–v.

placed the distribution of his obit charities, and the casual shelter of the third bed, entirely in their hands.[1] In Edinburgh, the Observatines soon became the recognised assistants of the chaplains of St. Giles in the distribution of obit doles, then a fashionable form of charity among the wealthy burgesses and churchmen. In terms of the charters of mortification—vivid pictures of the pious customs of the time—the chaplain received an endowment for the celebration of daily or annual services at his altar, and a further annual allowance for the purchase of "portions," or doles of meat and drink, to be distributed among the poor on the anniversary of his patron. Of these portions a certain number were invariably entrusted to the Observatines of Edinburgh, and with them, in the task of distribution, were frequently associated the Sisters of the "Hospital of St. Mary in the Vennel beyond the gates," the Leper Hospital and the Hospitals of St. Paul and St. Leonard. After the anniversary service, the remaining portions were distributed by the chaplain "to honest puir personis that hes maist myster," and, by granting an additional annual rent of six shillings "to be given to uther pure folkis that gettis nane of the daill," one thoughtful churchman provided against the disappointment of some of the beggars who crowded round the altar of the Holy Blood on his "patrone day"[2] in the hope of securing one of his seventy-six doles—"ilk portion to be ane quhete laif worth 4d., and 6d. in money upon the heid of ilk." In this case thirty-six of the portions were entrusted to the Observatines for division among that number of poor people; and it cannot be contended that these doles were given to the friars for their own personal use, because they were numbered and thus differentiated from the cases in which the donor gave the endowment directly to the Conventuals or Dominicans, with the further direction to distribute a quantity of bread or meat among the poor after his anniversary services.[3]

[1] *Supra*, p. 179.

[2] *Indenture*, Thomas Ewin, 10th July 1522; summary of this and other similar characters, *infra*, II. pp. 196–99.

[3] *e.g.* Haddington, *supra*, p. 180. An analagous case occurs in one of the charters to the altar of St. Lawrence in St. Giles, in which the chaplain is taken bound to inquire if the Dominicans were "*negligentes in celebratione missarum*

It will also be observed that the uniform association of the Observatines with the Leper House and other hospitals of the town raises a strong presumption that some of their number habitually carried the soothing influence of religion and medicine into the haunts of the poor.[1]

The earliest charter of this series, dating from the year 1477, was granted by Provost Walter Bertram of Edinburgh who endowed the altar of St. Francis, his favourite saint,[2] with certain annual rents for the support of the chaplain, and provided for the annual distribution of fifty doles among the poor, eight portions being entrusted to the Observatines,[3] three to the Leper House and three to the Sisters of St. Mary's Wynd—"And each portion shall consist of three pennies in bread, three in bear, and also three pennies in flesh, fish, cheese or butter, as the season requires." Provost Andrew Mowbray executed a similar charter in 1478, providing an annual rent of twelve shillings for his twenty-four obit doles;[4] while a third Provost of Edinburgh, who gave part of his obit doles to the Observatines for distribution, was Sir Alexander Lauder of Blyth, one of the slain at Flodden. His charter was granted on 11th October 1510, and was confirmed by James IV. on 17th August 1513, two days before the unfortunate provost and his bailies joined the Scottish army on the Burgh Muir, leaving behind them a president and four others to act in their place, "for the common weill and proffeit of the toun and guid reull thairintill to be had after thair passage to the King's armye." Sir Alexander was also Justice-Depute to Lord Gray, the King's Justiciar, and being a man of considerable wealth he bequeathed sixty portions to the poor, the Observatines alone, among the charitable institutions, receiving twelve.[5] As late

vel in distributione elemosinarum in alia infeodatione mea eis facta contentarum." *Charters of St. Giles*, p. 178 (Bann. Club).

[1] "The Mendicants were far more in sympathy with the poor than were the endowed monks, and possessed far more than the parish priest the confidence of the people." *Vide* authorities, Mr. A. G. Little, *The Grey Friars in Oxford*, p. 78.

[2] Cf. his donations to the friaries in Haddington and Aberdeen, pp. 181, 312.

[3] No. 1, *infra*, II. p. 196. Provost Bertram executed a second charter in identical terms in February 1495, *ibid.*

[4] No. 2, *infra*, II. p. 197, re-executed 19th December 1492.

[5] No. 4, *infra*, II. p. 197.

as 1535, another provost, Sir Adam Otterburn of Reidhall, continued this custom in his charter which provided for the distribution of fifty-two doles among the aged and deserving poor of the time. On this occasion, the friars and the sisters each received five of the portions represented by a wheat-meal bannock and the sum of eightpence for the purchase of flesh or beer.[1] Among the burgesses of the town who admitted the poor to a share in their testamentary charities were Richard Hopper and Alexander Rynde;[2] and, of the clergy, William Brown, Vicar of Mouswald (1517), Sir Thomas Ewin, chaplain above-mentioned, and Robert Hopper, Prebendary of St. Giles (1527), abundantly recognised the vicarious position of the friars towards the poor.[3]

Before the period of active Reformation is reached, the events that claim attention are the defence of the friary by the burghers in 1543, when the Earl of Arran was prepared to acquiesce in its sack,[4] and the presence of at least four Observatines at the Provincial Council held in the Black Friary in 1549.[5] Six years later, if it be not apocryphal vaticination, we may believe that Father Ludovic Williamson, the Observatine Provincial, summoned the magistrates to his bedside in this friary, and, after warning them that the leading members of the realm would withdraw their allegiance from its spiritual as well as its temporal head, addressed an earnest appeal to them to remain steadfast in the old faith. A forcible illustration of this anti-clerical temper of the times was given in 1558 at the annual civic festival of St. Giles. On 1st September it was discovered that the image of the saint had been stolen from St. Giles and thrown into the Nor' Loch,[6] whence it had been rescued and committed to the flames. In this emergency, a small statue of the Saint was borrowed from the church of

[1] No. 9, *infra*, II. p. 199.
[2] Nos. 3 and 5, *infra*, II. pp. 197–98.
[3] Nos. 6, 7, 8, *infra*, II. pp. 198–99.
[4] *Supra*, p. 81.
[5] *Stat. Eccl. Scot.*, II. 84 (Robertson). Friar Paterson, Provincial Minister, Wardens Andrew Cottis of St. Andrews and James Winchester of Perth, and Friar John Scott of St. Andrews.
[6] The usual ducking-place for scolds and offenders against the Seventh Commandment.

the Grey Friars, and made secure with iron clamps to the "fertorie"[1] on which it was to be carried. Attended by all the clergy and friars resident in the city, the statue was borne with tabrons and trumpets, banners and bagpipes through the principal streets. "And who was there," says Knox in his rugged, humorous account, "to lead the ring, but the Queen Regent herself, with all her shavelings, for honour of that feast." The Queen, however, had no sooner left than the mob made a violent attack on "Little St. Giles," as they contemptuously styled the borrowed image. "Some of those that war of the enterprise drew ney to the idole, as willing to helpe to bear him, and getting the fertour upon thare schulderis, begane to schudder, thinking that thairby the idole should have fallin. But that was prevented by the irne nailles. So begane one to cry 'Doun with the Idole! doun with it!' and so without delay it was pulled doun. Some brag maid the preastis patrons at the first; but when thei saw the feebliness of thare God, thei fled faster than thei did at Pynckey Clewcht. One took Sanct Giles by the heillis, and dadding his head to the calsay, left Dagon without head or handis; exclaiming, 'Fye upon thee, young Sanct Geile, they father wold haif taryed four such'"; and then, as Knox describes with rollicking enjoyment, "doun goes the croses, of goes the surpleise, round caps cornar with the crounes. The Gray Freiris gapped, the Black Frearis blew, the Preastis panted and fled, and happy was he that first gate the house; for such ane sudden fray came never amonges the generatioun of Antichrist within this realm befoir." Eight months later was enacted the sack of Perth, and on 14th May, in a letter addressed to them by the Queen Dowager from Stirling, the Town Council received knowledge of the "greit mysreull laitlie maid within the burgh of Perthe be certane seditious and evil gevin persouns,"[2] and strict orders to "gif gude heid and attendance that na sic uproir nor seditioun rys within your toun bot that the religious places be surelie keptit." Lord Seton, as Provost, accordingly provided for the defence of the friaries, and on the 3rd of June a menial, Mathow Stewinstoun, was indicted before the bailies because "the

[1] A portable shrine.

[2] *Records of Edinburgh*, 14th May 1559.

last nycht that he was upon the waiche" he threw stones at the windows of the Black and Grey Friaries. His master was thereupon obliged to furnish a surety of £200 "for entre of the said Mathow within the tolbuyth, or quhat tyme he be requerit." But on the morrow of the destruction of the friaries, in the circumstances already narrated,[1] no such penalties were visited on the depredators who have since served to shield the Lords from the odium of the pillage. Driven from their home, the friars sought refuge among their adherents while the great duel was being fought out between the French and English outside the walls of Edinburgh. Within six days of the signing of the Treaty of Edinburgh the magistrates were working for the possession of the religious lands and endowments, including those of the "freris and Magdelene landis"; and the register of their deliberations thereafter discloses them as strenuous supporters of the new religion. One or two Observatine Friars may have remained in Edinburgh subject to the draconian edicts[2] which followed the Act of 24th August 1560. Four out of the eight Black and Grey Friars of Edinburgh who received the pension of £16[3] can now be identified as Black Friars, and fortuitous accident may establish the identity of the remaining four.[4] From the accounts kept by the civic Collector of Church Rents, but little information can be gleaned. He tells us that "becaus of the troublis" of the times no accounts were kept for the years 1567 to 1573 "except twa yeiris and ane half of the samin"; and down to the year 1590 he only records the names of two friars—undifferentiated, but both Black Friars—as recipients of the pension of £16, the last payment being made to Friar John Chapman in 1585.[5] The civic collector was also custodier of the chartularies of all

[1] *Supra*, p. 147.

[2] *Records of Edinburgh*, 20th September 1560, 24th March and 2nd October 1561.

[3] *MS. Accounts, Collector-General*, Exonerations, 1561.

[4] The assignation of the Black Friary rents to the Burgh Hospital was burdened by payment of this pension to the surviving friars, and, on 7th April 1568, the Bailies and Council, "efter consideratioun of the pouertie and auld decrepit aige of freir Andro Leis, blak freir," instructed the Collectors to pay him £16 out of the said rents. *Records of Edinburgh*, p. 247.

[5] *MS. Accounts of the Collectors of Kirk Rents; infra*, II. pp. 377–79.

the religious houses in Edinburgh, and there is a payment entered in these accounts for "the careing of the coffer with the freir evidents out of the counsalhouss to my houss"—a procedure which explains, to some extent at least, the reason for the disappearance of so many of these documents.

I. ROYAL BOUNTIES TO THE GREY FRIARS OF EDINBURGH

1. Exchequer Rolls

1463, 27th July. Paid by the Custumars of Edinburgh to the Friars Minor and others, as appears in their accounts.

1464, 12th July. Paid by the Custumars of Edinburgh to the Friars Minor of Edinburgh, of the £200 due by the King to Nicolas Spethy, of which there was assigned to the Queen £50, and the remainder for the repairing of the place of the said Friars, the said Friars acknowledging receipt, viz.:—£50, and so there remains still to be paid to the said Friars, £50, because other £50 were allowed to the Treasurer in last year's account.

1489, 15th July. By delivery to the said Friars of the alms of our Lord the King, as they have been wont to receive by His Majesty's special command, as appears by his letters under his signet and subscription of date 4th February, until the 13th December next, which are 45 weeks, rendering to them weekly for bread, that is to say, 14 loaves, beer and kitchen provisions, 10 shillings of composition by the Auditors for the past arrears only, £22, 10s.

1490, 1st July. By delivery made to the said Friars receiving of the King's charity in eatables and drinkables 10s. weekly, to the 3rd of July inclusive, which are 28 weeks, by precept of the Lord the King, as appears by his letters under his signet and subscription shown upon the account, £14.

Payments of the victual allowance are recorded in the Rolls audited as follows:—19th July 1505, 1 boll wheat; 7th August 1516, 30 bolls barley; 31st May 1522, 2 chalders 15 bolls of wheat; 12th April 1524, 4 bolls 2 firlots wheat and 1 chalder 10 bolls 2 firlots of barley; 14th August 1525, 8th August 1526, 27th August 1527, 20th August 1528, 19th August 1529, 31st July and 5th September 1531, 16th August 1532, October 1533, 1st October 1534, 3rd September 1535, 9th September 1536, 18th September 1538, 1 chalder of barley and 8 bolls of wheat; 6th September 1540, 1 chalder 9 bolls 2 firlots of barley; 3rd August 1540 and 27th July 1542, 8 bolls wheat; 6th September 1555, 8th November 1556, 3rd September 1557, 12th August 1558, 14th August 1559, 30th October 1560, 20th March 1560–61, 1 chalder of wheat and 1 chalder of barley.

1518, 27th August. The Comptroller pays for a mart and a pig given to the said Friars as the alms of the King in Edinburgh, 18s.

1527, 22nd August. Paid by the Comptroller to the said Friars for 6 barrels of suet sold by them, £11, 8s.

1532, 16th August. Paid by the Comptroller to the said Friars for four Orkney marts given to them in alms by the King, 48s.

Also a chalder of barley as the King's alms for the year of this account.

1536, 9th September. Paid by the Comptroller delivering to the said Friars six marts and four pigs from Orkney (£4, 16s.).

Also, other six carcases of pigs, extending to 36s., in all, £6, 12s.

Also, 10s. for two skins delivered to the said Friars as alms gift of the King.

1538, 18th September. Paid by the Comptroller to the said Friars as the King's alms, for certain marts and pigs from Shetland delivered to them, £9.

1550, ... The Comptroller pays to the said Friars receiving annually £20 of the alms of the Governor, for the years of this account, £80.

1555, ... The Comptroller pays to the said Friars receiving annually £20, for the term of this Account, £10.

2. Treasurer's Accounts

1496. Item, the 12th day of Januare, giffin to the Gray Freris in Edinburgh, at the Kingis command, 40s.

1503. Item, the 21st day of December, to Schir Andro Makbrek, to the Gray Freris in Edinburgh, 42s.

1504. Item, the secund day of Junij for tua barrellis beir to the Gray Freris of Edinburgh, 25s.

1505. Item, the 9th day of August, to the Gray Freris, 20s.

1506. Item, the third day of Junij, to Schir Andro Makbrek to the Gray Freris of Edinburgh, 40s.

1526. Item, deliverit to the Gray Freris for lxiij unce siluer stollin fra the King and revelit to thaim in confessioune, be the Kingis precept, to the men that had the said siluerwerk in wed, £20.

LEGACIES TO THE GREY FRIARS OF EDINBURGH

1548, 30th May. Testament of Gavin Dunbar, Archbishop of Glasgow :—

"Item, to the Friars Minor of Edinburgh, £6, 13s. 4d."

1551–52, 18th March. Testament of Sir William Cockburn of Scarling, Knight, who desired to be buried in the aisle of St. Gabriel in the Church of St. Giles of Edinburgh, leaves to the Friars Minor of Edinburgh a load of wheat and 5 merks.

1551, 15th August. Testament of John Lindsay of Covington, leaves to the Friars Minor in Edinburgh, 40s.

1532–33, 15th March. Testament dated at Edinburgh 28th November 1532, by Alexander Hume of Redbraes, leaves to the Friars Minor 40s.

EXCERPTS FROM THE ACCOUNTS OF THE TREASURER ETC. OF THE BURGH OF EDINBURGH

1552. Item, to the Blackfreris and the Grey freris forthair penschioun yeirlie, twelve barrels beir, summa, £12.

1552. December. Item, payit to the Grayfreris be ane precept of the date the nynt of December 1552, £6, 13s. 4d.

1553–4. Item, to the Blackfreris and to the Grayfreris for thair preching yeirlie twelve barrels beir, price thairof, £14, 8s.

1553, December. Item, payit and delyverit to the Grayfreris be ane precept daittit the first day of December 1553, £6.

1554, July. Item, payit to the Gray frerisbe ane precept datit the 20th day of July, £4.

1554–5. Item, to the Blackfreiris and to the Grayfreiris for thair preching yeirlie, ilk ane of thameself ane last of sowndis beir, price of ilk boll, 28s., summa, £16, 16s.

1555, August. Item, payit to Patrik Boyman in Leyth, for ane dosane eistland burdis to the Grayfreirs, be ane precept the 16th day of August 1555, £4, 16s.

1556, Julii. Item, to the Gray Freiris be ane precept datit ultimo Julij, £5.

1556. Item to the Blackfreris and the Gray, for thair preching yeirlie, twelve baralis beir, price thairof £18.

1557. Item, the 18th day of Junii, be ane precept, for half ane last of beir to the Grayfreris gevin thame for thair preicheing.

1558. Item, to the Gray Freris, be ane precept of the dait the 5th day of Junij, anno 1558, for the half last beir grantit to thame yeirlie for thair precheing, the sowme of £6, 13s. 4d.

EXCERPTS FROM THE RECORDS OF THE HAMMERMEN OF EDINBURGH[1]

1536. At ye maisteris qumand to ye Gray Frars, 20s.

1537. To ye Gray Frars at ye masteris qumand as other craftis dois, 20s.

1539. At ye maisteris qumand to ye Gray Freris, 20s.

1540. To ye Gray Freirs as use is, 20s.

[1] John Smith, *The Hammermen of Edinburgh*, pp. 97, 99, 104, 106.

CHAPTER IX—(*continued*)

OBSERVATINE FRIARIES

St. Andrews

The erection of the second Observatine friary is identified with Bishop James Kennedy of St. Andrews and with the early history of the parent University in Scotland. In 1458, contemporaneously with the foundation and endowment of St. Salvator College by this enlightened churchman, a small colony of Observatines from Edinburgh was invited by him to settle in the capital of his See.[1] The nucleus of a home and a diminutive glebe were his gift to them, to be enlarged some years later by his nephew and successor, Patrick Graham, first Archbishop of St. Andrews.[2] At the Reformation, this land measured six *particatae* in width,[3] and lay "within the city of St. Andrews in Market Street on the north side thereof extending northwards towards North Street, between the lands of the heirs of the deceased Robert Smith and William Symson on the east, the land of the deceased John Jakson's heir on the west, and the public streets of the said city on the north and south sides."[4] The plan of old St. Andrews, dating from the year 1540, represents this site as roughly rectangular with North Street and Market Street as its northern and southern boundaries; while a line drawn from the Port of Market Street to North Street, and another from the Port of North Street to Market Street, enclosed it on the east and west

[1] *Ob. Chron.*

[2] *Ibid.* Confirmed in narrative of Crown Charter, 21st December 1479. *MS. Reg. Mag. Sig.*, IX. No. 2; *supra*, p. 62.

[3] Its depth is not stated. The town received a rent of eighteen merks from their tenant of it in 1573. *MS. Rental of Chaplainries.* G. R. H.

[4] *MS. Notarial Instrument*, 21st September 1559, *Reg. Eviden. Civitat. S. Andree*, f. 31; *infra*, II. p. 202.

sides.[1] The friary buildings were simple and unpretentious in character, and all that now remains of them are a fragment of the enclosing wall—the western boundary of several gardens at the north end of North Street,[2]—the friary well, and some carved stones which were placed in the old chapel of St. Leonards after their discovery among the accumulated rubbish in the well about seventy years ago.[3] On two of these stones the following inscriptions are engraved in beautiful characters, "*Si vis ad vitam ingredi, serva mandata. Mat. xix.*"; "*Mandata ejus gravia non sunt. Primae Joan. v.*"

The sanction of the Curia to Bishop Kennedy's foundation was granted in the *Intelleximus te* of 1463; and the brethren were confirmed in their property by the Crown Charter of Mortification granted by James III. on 21st December 1479.[4] Father Hay singles out Friar Robert Keith (Creth), a doctor in theology and kinsman of the Earl Marischal, as the leading personality in the early history of the Observance in St. Andrews. With him was associated his "marrow," Friar Richardson, already referred to as an associate of Father Cornelius and one endowed with the migratory instincts of the true Franciscan. While he turned his steps northwards to take an active share in the erection of the friary at Aberdeen, Friar Keith remained in St. Andrews as its first Warden; and, in later life, he was thrice elected Provincial Minister of the Observatines. He would appear to have been an ideal Franciscan, quick to observe his vow of obedience by implicit submission to the corrections of his superiors, and to have possessed the faculty of imparting to his listeners a keen desire to emulate his own purely Franciscan virtues. His noviciate in the friary at Edinburgh became a tradition considered worthy of particular notice in the chronicle of the Order; and his wardenry at St. Andrews appealed so strongly to the vague longing of

[1] The Port in Market Street stood twenty yards west of Bell Street, and that of North Street fifty-five yards east of Greyfriars Gardens. Both have long since been removed, the latter in 1838. Dr. Hay Fleming, *Guide to St. Andrews*, p. 13.

[2] *Guide to St. Andrews*, pp. 110–111.

[3] Lyon, *History of St. Andrews*, I. 226–227 (note).

[4] *MS. Reg. Mag. Sig.*, IX. No. 2.

his contemporaries after the perfect religious life, that "the flower of the youth of the sacred University deserted the allurements of the world and became followers of the holy father in his profession."[1] Under his guidance, we may therefore infer that the friars took an active share in the spiritual life of the University. At an early date, the Observatine schools of philosophy and theology in Edinburgh were supplemented by a seminary for the novices of the Order who came to study the Arts in St. Andrews; but Father Hay affords us no information concerning the date of this extension. Nor does he pause to illustrate its customs and management in his haste to reflect upon the numerical strength of the friary,[2] and the appointment of its ordained priests by the Archbishop to hear the confessions of the students.[3] The voluntary nature of the origin of this custom in Scotland—also put into practice by the Archbishop of Glasgow and the Bishop of Aberdeen—together with the benevolent attitude of the clergy towards the Observatines,[4] are significant indications of the disappearance of caste in the Church; while the self-effacing loyalty of the Observatines in their care of the confessional offers a striking contrast to the aggressive militarism forced upon the Conventuals by the reactionary churchmen in the thirteenth century. The prevalent desire had been to exclude the friar from the office of confessor, and the puerile tactics of the obstructionists had gradually alienated him from the spirit of his Rule. Now, when a *modus vivendi* had been established,[5] he was empowered to hear confession irrespective of diocesan or parochial sanction, and this foundation of canonical privilege, won amid general disregard of the Rule, rendered possible a reasonable observance of it. The Order returned to the friendly relations with the clergy so strongly

[1] *Ob. Chron.*

[2] Twenty-four friars, he states, ordinarily resided at St. Andrews. In the total absence of evidence concerning this friary, it is now impossible to contest his estimate, although it may be accepted with reserve if the number be intended to include only licensed preachers and fully ordained priests.

[3] *Vide* analogous custom among the Franciscans at Oxford; Mr. A. G. Little, *The Grey Friars in Oxford*, p. 63; *infra*, p. 430, note 3.

[4] Edinburgh, St. Andrews, Aberdeen, Glasgow, Stirling, Dunblane and Brechin.

[5] Boniface VIII., *Super Cathedram.*

desiderated by St. Francis; and, in the history of this friary, we have the first well-authenticated case of the realisation of this ideal by the Scottish Franciscans. In the management of the Colleges the friars also took some share. Archbishop Hamilton appointed their Warden, in the absence of the Observatine Provincial Minister, to act as one of the six patrons and visitors of St. Mary's College, founded on 5th March 1553–54;[1] and it was also provided that the meetings of these patrons for the election of the Provost or other officials, should be preceded by due intimation of the sederunt affixed to the gates of the three Colleges and of the Grey and Black Friaries fifteen days previously.[2] In the domain of University finance, the integrity of the Observatines, and the confidence reposed in them by the high dignitaries of the Church, could receive no better illustration than the charter granted by Gavin Dunbar, Bishop of Aberdeen, as executor of the Bishop of Orkney. This deed provided for the foundation of three chaplainries, two in the parish church and one in St. Salvator's Chapel, and directed that the redemption money should be placed in the custody of the Grey Friars of St. Andrews until the purchase of new securities had been arranged, in the event of any of the annual rents assigned as endowments happening to be redeemed.[3]

The elaborate educational machinery maintained by the Order makes it only natural to suppose that the most promising novices passed from the provincial schools to one of the Colleges. The name of Friar Alexander Arbuckle, can, however, alone be identified; unless Dempster's reference to one John Wadlock—alleged to have been a famous mathematician in the reign of James V. and to have resided for the most part at this friary—be considered sufficient to warrant the inference that this mathematician was a Franciscan.[4] In fact, our knowledge of the history of these friars is almost entirely confined

[1] Regulations of the College, new foundation; Lyon, *History of St. Andrews*, II. 261. After the Reformation this appointment gave rise to much contention. *Reg. P. C.*, II. 561.

[2] *Ibid.*

[3] *Laing Charters*, No. 368, 10th April 1528. *Vide* similar instances at Stirling and Ayr; *infra*, pp. 353, 373.

[4] Repeated by Spottiswood, *Religious Houses*, p. 451.

to events arising out of their connection with the University and their mental activity. Their missionary or educational work is unnoticed by the native historians;[1] but, on the approach of the Reformation, they are revealed as vigorous preachers and disputants, as men endowed with a caustic wit, and as strenuously intolerant defenders of their Church. But it is an irony in the history of the Reformation that several cases of disinterested apostasy in the Order should spring from this strict living community, and that John Knox should select one or more of the sermons delivered by its preachers, in the cause of internal reformation, as his illustrations of ecclesiastical profligacy, ignorance and superstition. Nevertheless, the gulf between heresy and criticism was wide; and we find that the friars of St. Andrews were pre-eminently the representatives of inquisitorial zeal among the Scottish Franciscans. Their responsibility for the exile of their apostate brother, Friar Melvil, is less definitely established than are their vigorous endeavours to wrest Friar Dick of Aberdeen from the protection of his friends in Dundee. Warden Dillidaff, in 1528, sat among the judges who condemned Patrick Hamilton on the accusation of the Dominican Prior, Alexander Campbell;[2] and, in 1540, along with his Provincial Vicar, John Paterson,[3] he formed one of the tribunal that passed judgment in absence upon Sir John Borthwick. Another Warden, Symon Maltman or Legerwood,[4] earned obloquy by his share in the trial and martyrdom of Friar Jerome Russell at Glasgow in 1539;[5] and Pitscottie asserts that he was the preacher of the sermon in the Abbey Church of St. Andrews which preceded the trial of Walter Myln, the last Protestant martyr in Scotland. But the supremacy of the new faith was at hand. Four-

[1] In 1504, the Observatine Provincial Chapter was held in this friary under the presidency of Friar Anthony, the ultramontane Vicar General. It granted letters of confraternity admitting Sir Thomas Maule and his wife to the Third Order; *infra*, II. p. 265.

[2] *History of the Reformation*, I. App. 508.

[3] He had been Warden of the Glasgow Friary in 1531.

[4] As "Friar Symon Lydzartwood" he appended his signature as a witness to a deed of presentation, dated 10th October 1539, by the Earl of Bothwell to a prebend of Hauch in the Collegiate Church of Dunbar. *Hutton MSS.*, Adv. Lib.

[5] *History of the Reformation*, I. 64.

teen months later this "Sergeant of Sathan," as a frail old man, assisted through the ceremony by Vicar John Ferguson, experienced the full bitterness of defeat when he resigned his friary into the hands of the Magistrates, in the vain hope that they "themselfis (be) left undisturbut." Another Observatine of St. Andrews vigorously assailed by John Knox, was Friar Scott,[1] one of the "twa Gray feindis" who invited George Wishart to confess to them before he was burned on the Castlehill. "Schir," they said, "ye must maik your confessioun unto us." "I will mak no confessioun unto you," answered the reformer. "Go, fetch me yonder man that preached this day and I will maik my confessioun unto him." Dean Wynram, invidiously selected as the Scottish Vicar of Bray, was thereupon sent for; "but what he (Wishart) said in this confessioun I cannot schaw."[2] Friar Scott is again singled out as the target of obloquy in the narrative of the opposition offered by the Franciscans to the sermons delivered by the apostate Black Friars, Williams and Rough, under the protection of the Regent Arran. "Amonges the rest," says Knox in his parenthesis, was "Frear Scott, who befoir had given himself furth for the greatest professour of Christ Jesus in Scotland, and under that cullour had disclosed, and so endangered many."[3] From the context and phraseology of this sentence we ought, perhaps, to infer that Knox accuses Scott of having given himself forth as a zealous convert to the new doctrines, with the intention of furnishing the Scottish inquisitors with valuable information acquired during his confidential intercourse with the unavowed supporters of Protestantism.[4] Resident in the hotbed of religious intolerance, there is every probability that he was an active seeker after heresy, and that he did institute inquiries into the doctrines of many;[5] but, in the

[1] There is no evidence to support Mr. David Laing's inference (*Hist. Ref.*, I. 96, note), that the charlatan preacher and faster of this name ever entered the Franciscan Order. Cf. the Earl of Glencairn's Rhyme.

[2] *History of the Reformation*, I. 168. [3] *Ibid.* I. 196.

[4] The use of the word "endangered" implies that no one denounced by Scott suffered the last penalty for his convictions.

[5] Cf. the frequent examinations made into cases of doubtful doctrine—*e.g.* Dean Thomas Forret—which only terminated in martyrdom in exceptional cases.

interest of historical justice, it would have been more satisfactory if the historian had expressed his accusation in less elliptical form. It is, of course, possible that he does not accuse Friar Scott of tactical apostasy. The parenthesis must therefore be held to imply that Scott betrayed the secrets of those who confessed to him, under the impression that his denunciations of the prevalent evils in the Church betokened a personal sympathy with the new faith. The duty of a Roman Catholic priest placed in such a position requires no discussion; and we cannot lose sight of Knox's extreme disapproval of the confessional, as well as of his distinct fear of the base uses to which it may be, and sometimes was, put by unprincipled men.[1] In the preceding pages, grave exception has frequently been taken to this writer's conception of the functions of history; but the debonair manner in which he lavished disparagement upon the clergy of the old Church is nowhere more aptly illustrated than in his serio-comic account of the convention of "Gray Freiris and Blak feindis" held in St. Leonard's Yards in 1547, under the presidency of Dean Wynram.[2] The central figure was John Knox himself, summoned to explain "the heretical and schismatical doctrine" which he had expounded in the Abbey Church in the presence of the local clergy and certain Grey Friars. The subject of disputation was a summary of his sermon condensed into nine articles, in which, while "otheris sned[3] the branches of Papistrie, he (Knox) stryckis at the roote to destroy the hole."[4] In brief, Knox set out to disprove the central tenets of the Roman Catholic form of worship,[5] and promised further discussion on two important questions of the day—"There is no Bischoppes except thei preech evin by thameselfis, without any substitut; and the teindis by Goddis law do not apperteane of necessitie to the Kirkmen."[6] His leading opponent in the disputation was Friar Alexander Arbuckle, and this choice of an Observatine as the Romanist

[1] *Vide* pp. 409–15, 426, the Franciscans and the confessional.
[2] *History of the Reformation*, I. 191–201.
[3] Pruned.
[4] The Laird of Niddrie's comment. *Ibid.* I. 191.
[5] Summary, *ibid.* pp. 193–94.
[6] Cf. *infra*, p. 432.

champion will not pass unobserved. From the insertion of his name in the list of Determinants of the fourth class under the year 1525, he would be a man in the prime of intellectual vigour at this date. He was thrice Observatine Provincial Minister, and Father Hay asserts that, "thoroughly versed in all the liberal sciences and without his equal in the kingdom in the three tongues—Latin, Greek and Hebrew—he engaged in many disputations with the heretics and arch-heretics, from which he always emerged victor. Afflicted unto death with stone, and driven from the exercise of Religion in his native land, he ended his life in the household of a certain catholic bishop in the year 1562."[1] Knox presents his opponent in a totally different light. He was a man of small wit—few would have thought so learned a man would have given so foolish an answer, and yet it is even as true as he wore a grey cowl. He suffered many a fall, he made the best shift to correct his fall, and thereafter could speak nothing to the purpose, producing no better proof of purgatory than the sixth book of the *Æneid*! If truth be told, this garbled account of the argument upon the nine articles would lead the modern reader to form the meanest opinion of the dialectic skill of both disputants. The trumpery jests of the "Suppriour" on meat and drink were brushed aside, and the principals opened upon the ceremonies of the Church. But these, and "the question of God's true worshipping, without which we can have no society with God," were alone discussed; "many other thingis war merealy skooft ower." We are not surprised to hear that the greater part of the ceremonies were "papisticall inventionis," or that faith, as their basis, brought about the downfall of the friar, who, "while he wanderis about in the myst, falles in a fowll myre." To this sad plight he was brought by the reformer's logic[2]—freely interspersed with *petitio principis*, *argumentum ad hominem*, and fallacious minor premises which the friar at

[1] *Ob. Chron.*

[2] "That which may abyd the fyre, may abyd the word of God.
But your ceremonies may not abyd the word of God.
Ergo—Thei may not abyd the fyre.
And yf thei may not abyd the fyre, then are they not gold, silver nor precious stones."

once refuted. As a fitting termination, Arbuckle was so nonplussed as to reply "that the apostles had not received the Holy Ghost, *when thei did wryte thare epistles*; but after, thei received Him, and then thei did ordeyn the Ceremonies"! We may therefore surmise that Knox's enthusiasm in the perpetration of a satirical sally against this "foolish Feind" made him blind to his own fallacies, as well as to those glaring improbabilities which found ready acceptance among the reading public of his day. Father Arbuckle thus shared the common fate of John Knox's opponents, escaping no more lightly than did Bishop Leslie—"the complete dunce and ignorant."

Twelve years later, Knox's words bore different fruit in St. Andrews. In the summer of 1559 politics transformed windy disputations upon doctrine into the severest condemnations of the Church, delivered with the express purpose of inciting the populace to pillage the religious houses. News of the blow that had fallen upon Perth (11th May) soon reached St. Andrews. A week later, the Observatines invoked the protection of the magistrates; and the ownership of the friary was transferred to the burgh by Warden Maltman, on the understanding that the friars themselves should be left undisturbed in their occupation of it.[1] Although this immediate and practical provision for the future totally failed in its purpose, it would be surprising if it had sprung from their own initiative. In point of fact, we can trace in it the suggestion and active participation of Friar John Ferguson, Provincial Vicar of the Conventuals, who had already selected convenient friends, or the magistrates of the respective burghs, as the provisional disponees of five out of their seven friaries. The Provincial Minister of the Observatines for this year was Friar Patrick,[2] and the writ, which infefted the burgh of St. Andrews in the site of the friary, thus furnishes us with the single recorded instance in Scotland of any intimate connection between the Observatine and Con-

[1] *Narrative of MS. Notarial Instrument*, 21st September 1559. Resignation was carried out on 18th May preceding. *Infra*, II. p. 202.

[2] *Ob. Chron.* The Observatine Superior was invariably styled Minister, whereas the Conventual Superior of the Vicariate was officially designed as Vicar, because his seven friaries never rose beyond the dignity of a vicariate.

ventual friars.[1] Knox chronicles the overthrow of Roman Catholicism at St. Andrews in his customary inexact manner. The third of June was appointed by the Earl of Argyll and Lord James "for Reformation to be maid thair." "Which day they keap and broght in thair cumpany Johne Knox, who, the first day after his cuming to Fyfe, did preache in Carraill, the nixt day in Anstruther, mynding the third day, which was the Sonday, to preache in Sanctandrois." The Archbishop, however, threatened to greet Knox at the door of the Abbey Church "with a dosane culveringis quhereof the most parte should lyght upon his nose," and a certain amount of dramatic effect is introduced into the narrative by the contrast between the fixity of the reformer's resolve to deliver his sermon and the abortive dissuasion of his friends. Nevertheless, a week did elapse before the crusade against idolatry was opened in the parish church on Sunday 11th June, with his sermon upon "the ejection of the byaris and sellaris furth of the Tempill of Jerusalem." He would have us believe that the burghers responded to his call "with expeditioun";[2] but three more days were consumed in exhortation ere reformation, complete and drastic, was effected on all the beautiful ecclesiastical buildings in the town upon the following Thursday.[3] The Grey Friary shared in the general ruin, and, on 21st September, it was described as "desolated ground and overthrown buildings,"[4] from which only one document has survived.[5] In company with the rest of the Observatines, Friar Arbuckle and his brethren retired to the Netherlands, where he died two years later; and, in marked contrast to the Dominicans,[6] not a single Observatine of St. Andrews

[1] Vicar Ferguson is designed as Warden Maltman's "brother for them and thar convent."

[2] *History of the Reformation*, I. 347–50.

[3] Knox to Mrs. Anna Lock, *ibid.* VI. 25. "This reformatioun there was begun the 14th of June. . . . And so that Sabboth and three dayes after I did occupie the publict place in the middest of the Doctors."

[4] *MS. Notarial Instrument*; *infra*, II. p. 202.

[5] Transumpt of the Charter, dated 20th July 1469, granted by Richard Vaus of Many to the Observatines of Aberdeen. It is now preserved in the burgh archives; *infra*, pp. 308–10.

[6] Provincial John Grierson had a special pension of £25, 6s. 8d., and gave up an incomplete rental of the friary lands and ground annuals dated 6th February 1561–62. (*MS. Books of Assumption*, 1561.) Friar Bernard Thomson received a

was entered as a pensioner out of the Thirds of Benefices. Possessed of no ground annuals, the extent of their former possessions was summarily expressed in the town's answer to the Lords Commissioners in 1573, that, as owners of the friary in terms of Queen Mary's Charter of the ecclesiastical properties, "thai gett nathing thairof bot alanerlie eighteen merkis for the Gray Freiris places and yaird."[1] The allowance of two bolls of wheat and barley from the Exchequer ceased to be paid after 1560; but it is extremely improbable that this diminutive grant represented the whole victual stipend of the Grey Friary. In this respect, there is a complete analogy between the friaries in the three episcopal towns, distinct from the other Observatine houses. In Aberdeen the royal charity was restricted to one barrel of salmon, and in Glasgow to a barrel of herring: whereas two chalders of grain were allowed to the friaries in Edinburgh and Stirling, one chalder to that at Perth and similar proportions to the less important houses. It may, therefore, be concluded that episcopal support was substituted for the royal grants in St. Andrews, Aberdeen and Glasgow; and, in conjunction with Knox's direct allusion to the "Bishop's Charity" in St. Andrews, we must look to this source as a material contribution to the sustenance of the friars in these towns—

> "For, shaw thay all the veritie
> Thaill want the Bischop's charitie."[2]

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pension of £16, "at command of the Comptroller's Precept." (*Sub-Collector's Accounts*, 1564, Discharge.) Friar Andrew Abircrumby received one third of the parsonage and vicarage of Mukarsy, valued at £33, 6s. 8d. (*Ibid.* 1568.) Friars Thomas Lyston and Henry Masoun received the customary pension of £16. (*Collector-General's Accounts*, 1562.)

[1] *MS. Rental of Chaplainries*; *infra*, II. p. 205. The permanent endowments of the Dominican Priory in St. Andrews were returned in the Books of Assumption and Accounts of the Collectors at £103, 6s. 8d., irrespective of four bolls of wheat from a croft at Cupar and £20 in money from the Crown. This amount was burdened by the pensions of the surviving friars; but, by 1563, it had been reduced to £67, 6s. 8d. through the disappearance of several of the annual rents. Out of this sum, in 1568, £40 was assigned to "the crypplis, lamyt, blind and pouer of Sanct Nicolace hospitale beside Sanctandrois." In 1573, the representatives of the burgh made no return to the Lords Commissioners of the annual revenues received from the Dominican Priory.

[2] Sir David Lindsay, "Ane Satyre," II. 739–760.

ROYAL BOUNTIES TO THE GREY FRIARS OF ST. ANDREWS

I. Exchequer Rolls

Payments of two bolls of wheat and two bolls of barley are recorded in the Roll of 3rd September 1538 and each succeeding Roll until that of 14th July 1542.

1550. The Comptroller pays to the Friars Minor of Observance of St. Andrews the Governor's alms for the year 1549, £5.

II. Treasurer's Accounts

1497. Item, the 17th day of December, to the Gray Freris of Sanctandrois, be the Kingis command ane unicorne and ane ducait; summa, 33s. 6d.

1504. Item, to the Gray Freris of Sanctandrois, 42s.

1504. Item, the 29th day of Januar, in Sanctandrois, to Schir Andro (Makbrek) to the Gray Freris there, 40s.

1504. Item, to the Gray Freris of Sanctandrois, be the Kingis command, for the Archdene of Sanctandrois, £3.

1506. Item, the 18th day of March, to the Gray Freris of Sanctandrois, 42s.

Three other indefinite entries of payments to the "Friars of St. Andrews" also appear in these accounts.

INTER VIVOS GIFTS

Master Alexander Gordon, Vicar of Mains, near Dundee, is mentioned in the Aberdeen Obituary as having conferred many benefits on this friary during his life.

Rector Burnet of Methlick, in Aberdeenshire, sent 108 merks to its friars.

LEGACIES

No testamentary bequests to the Observatines are recorded in the extant fragment of the diocesan register of confirmed testaments 1549–51. In the inventory of debts owing to one testator, Robert Robertson, mention is made of the Friars Minor, who owe him "duas bollas ordei, pretium bolle, 38s."; [1] and Margaret Pitmaden's inventory mentions as goods in her possession "duo rethia, viz., de Minoribus, pretium petie, 15s."

[1] The Dominicans owed Margaret Pitmaden £10, and she and Isobel Richertson both elected to be buried in the church of the Friars Preachers.

CHAPTER IX—(*continued*)

OBSERVATINE FRIARIES

Perth

The foundation of the Observatine Friary at Perth is one of the few instances in which oral tradition was an indifferent servant to the chronicler. "The third convent of Observance," he narrates, "was erected in Perth by Lord Oliphant[1] in the year 1460. Thither was sent Father Jerome Lindsay, son of the Earl of Crawford, a convert of Father Cornelius of Zierikzee, and a Doctor of Civil and Canon Law of Paris before the coming of Religion. His piety and preaching so deeply stirred the hearts of the citizens and people to good works that, in the space of three years, other religious men of the order of St. Dominic and the Carmelite friars received convents in the same town."[2] Father Jerome Lindsay was not a son of the Earl of Crawford, although he may have been a kinsman; and, considering that the Dominican and Carmelite friaries dated from the thirteenth century, his preaching in the Observatine habit could have had no influence with the burghers in regard to these foundations. There is, however, no definite evidence on which to contest the year 1460 as selected by Father Hay, and his statement may be accepted as approximately correct. The omission of this friary, and those at Ayr and Elgin, from the Crown Charter of Mortification granted by James III. in 1479[3] occasions no surprise, inasmuch as that was an exceptional document; and it will be observed that the four Bulls of Erection granted by the Curia to the Scottish Observatines during this century do not conflict with the dates of foundation given by Father Hay. The first notice of the

[1] Sir Laurence Oliphant of Aberdalgie, created first Lord Oliphant before 1458.

[2] *Ob. Chron.* The *Aberdeen Obituary Calendar* states that Friar Richardson procured the erection of Aberdeen, the third convent, doubtless meaning that Aberdeen was the third convent in which this friar was interested.

[3] *Supra*, pp. 61–62.

friary in the central records occurs on 1st November 1496, when the Chapter received a gift of forty shillings from the privy purse of James IV.; and, as was customary during this reign, several other gifts varying in value from twenty to forty-two shillings were received from the same source.[1] In the Exchequer Roll of 7th August 1516, we learn that the victual stipend from the Crown was eight bolls of wheat and an equal quantity of barley, delivered in that year by James, Archbishop of Glasgow, as Chamberlain of Fife. This stipend occasioned the brethren the same anxiety as the informality of the grant of James II. did to the friars of Kirkcudbright.[2] Having neither a letter of gift nor a precept as warrant for payment, we can infer from the entries that the Chapter was frequently compelled to appeal to the King or Regent to secure the continuation of its allowance. The Regent Albany addressed a precept on its behalf to the Chamberlain in 1516. The payment was allowed in 1527 "by the charity of the Auditors," accompanied by the threat of non-payment for the next year in the absence of a proper warrant. Consequently, in 1528, James V. granted a precept, and thereafter the stipend appears as the King's alms until 1543 when the Rolls abruptly cease. From the year 1538 it was supplemented by two bolls of the same kinds of grain from the bailiary of Errol; and, in 1550, we learn for the first time of an annual money allowance of £5 to continue during the will of the Governor.[3] The Crown Charter of 15th November 1600, in favour of the burgh for the maintenance of the bridge, enables us to identify the provenance of this allowance as the King's fermes of Perth, which amounted to eighty pounds, and were, in pre-Reformation times, apportioned to the extent of £69, 8s. 8d. among the religious houses of the town.[4] The spiritual

[1] *Treasurer's Accounts*, 1497–1504, Summary, *infra*, p. 305.

[2] *Supra*, p. 252.

[3] *Vide supra*, p. 82, note 2.

[4] *Reg. Mag. Sig.* (Print), VI. No. 1098. The Exchequer Rolls record a slight difference in the total amount—

Black Friary, £26 and £7, 6s. 8d. from the Customs of Dundee.
Carmelite Friary, £3, 6s. 8d.
Observatine Friary, £5.
Charterhouse, £33, 6s. 8d.

friend who received this money on behalf of the Chapter in 1550 was one John Roger, junior; but the brevity of the entries framed by the Treasurer's clerk, when he recorded two gifts of ten pounds by James V. in 1527 and 1530,[1] leaves us in doubt as to whether these friars habitually observed the letter of their Rule in this respect.

The testamentary charities are represented by a legacy of ten merks in 1548 from Gavin Dunbar, Archbishop of Glasgow, two stones of cheese from James France, Chaplain of Dunblane, two bolls of oatmeal from Sir Robert Menzies, one pecuniary legacy of thirty shillings from Marjory Lawson, Lady Glenegeis, and two others of ten and thirty shillings.[2] That generous benefactor of the Observatines, Rector Burnet of Methlick, also contributed 109 merks for the renovation of the friary church about the year 1552;[3] while the gift of seventy pounds, "be my lord Gouvernour's command," on 22nd July 1553 may have been intended for the same purpose.[4] Otherwise our knowledge of the history of the friary before the memorable 11th of May is confined to two notices of it, although the Gaelic-speaking friars, who aided Bishop Brown of Dunkeld as missionaries among the Highlanders, may have been Observatines of Perth. On 25th January 1544, six Protestants were burned in Perth on various pretexts, Robert Lamb, William Anderson and James Ravelson suffering martyrdom "for hanging up the image of Saint Fraunces in a corde, nailying of rammes hornes to his head and a cowes taile to his rumpe."[5] Five years later Warden James Winchester attended the Provincial Council held at Edinburgh in 1549 for the recognition and

[1] *Treasurer's Accounts*, 25th July and 5th December, *infra*, p. 305.

[2] Summary, *infra*, pp. 305–6.

[3] *Aberd. Ob. Cal.*

[4] *Treasurer's Accounts*. Friar Strang of Aberdeen ornamented some of the windows of the original church with stained glass. *Aberd. Ob. Cal.*

[5] Foxe, *Actes and Monuments*. Knox, *Works*, I. App. I. The counterpart of this scene was enacted in the Dominican Priory on the 14th of May preceding, when several of the townsmen broke into the friary between "aucht and nine houris before noon" during the celebration of mass. They broke up the doors, carried off the locks, candelabra and glasses, and "tuke off the fire the kettil with thair mete and careit it about the toune." The brethren valued this kettle at three pounds. "Summonds of Spuilzie," *Black Friars of Perth*, p. 229, Dr. Robert Milne.

uprooting of the evils that had crept into the Church.[1] Soon afterwards, he migrated to Aberdeen, and, while acting as Warden of that friary, died in 1553 during the course of a mission to France.[2]

As already narrated, the friary shared the fate of the other religious houses in Perth, before the first destructive blast of the Reformation, and the pillage of its larder by the poor has focused undue attention upon the material comforts enjoyed by the Observatines as compared with the Black Friars. "The lyik haboundance," says Knox, "was nott in the Blak Frearis; and yit thare was more than becam men professing povertie." While recognising the unhistorical character of this accusation, and aptly stigmatising the former sack of the Black Friary as an "advertisement of conventual luxury," the historian of the Black Friars of Perth is unwittingly unjust to the Grey Friars in accepting this statement of John Knox.[3] The census of ecclesiastical endowments is a practical commentary. Neither of these Orders observed the letter of their Rules; but the Observatine, in his observance of the Rule of St. Francis as interpreted by the *Exivi* of Clement V., followed the intentions of his founder much more closely than did the Dominican, whose vow came to imply personal but not corporate poverty.[4] The *Exivi* and *Quorundam exigit* sanctioned a practical provision for the future by the storage of victuals;[5] but the prohibition of the *Exivi* against the acceptance of annual rents, or of land with a view to the sale of its produce, remained absolute. In Perth, the Grey Friary owned neither ground annuals nor disjoined lands. The ruined buildings became a convenient quarry for the burghers, and its cemetery and exiguous yards were converted into a public burial ground, which was assessed at an annual value

[1] *Stat. Eccl. Scot.* (Robertson), II. 84. [2] *Aberd. Ob. Cal.*

[3] Dr. Robert Milne, *The Black Friars of Perth*, p. xxvii.

[4] The Dominicans of Perth began to acquire annual rents during the reign of Robert Bruce, and before the middle of the fifteenth century granted feus of their lands like other churchmen. *Ibid.* Charters.

[5] Father Hay states that "even in the last days when Religion was tottering to its fall, the Wardens of the convents were compelled to return much of the proffered alms to those from whom they had been received."

of £8 immediately after the Reformation.[1] The citizen no longer placed his offering in the friary tronc or paid the Chapter a few shillings for a funeral service and burial lair within the friary;[2] the merchant did not require to be paid by him for goods supplied to the friars; and their larder had ceased to be his care. They were exiles, and their legacy to the town was a piece of land not exceeding two acres in extent. On the other hand, the Dominican Rule in its current observance sanctioned the acceptance of annual rents or any other form of permanent endowment; and so the state of the larder was a matter of much less concern to these friars who could replenish it from time to time out of the money that flowed into their coffers from four distinct sources. As in the case of their rivals, the revenue from the offertory box is purely conjectural. The Exchequer contributed £33, 6s. 8d. annually.[3] The minimum value of the victual stipend drawn from private lands during the Reformation period was £50,[4] distinct from the sale of bestial and the crop derived from their own lands extending to about ten acres.[5] Annual rents in their possession produced an income of £68,[6] occasionally supplemented by grassums paid on the entry of heirs to land of which the friary was superior,[7] and so the Dominican with a fixed money revenue of more than two hundred pounds, supple-

[1] "MS. Compt of Oliver Peblis and John Davidson, Maisters of the Hospital of Perth, 1574–75," preserved in *Rentals and Accounts of Religious Houses*. G. R. H.

[2] *Vide* note, p. 136.

[3] £7, 6s. 8d. of this sum was paid out of the Customs of Dundee, and, on 23rd December 1543, the Regent Arran ordered the magistrates to resume payment because the Dominicans of Perth were "pure religious men and hes litill mair patrimonie of thair said place to leif on."

[4] Payment of the victual was frequently withheld by the landowners after 1560, and in 1568 the Collector's entry states that "William Moncreif of that Ilk, for non-payment, he is at the horn." *Sub-Collector's Accounts*, 1568, Div. III.

[5] In 1547 "the haill croft on the north and west sides of the priory" was leased to a tenant on the following conditions: The friary and the tenant shared equally in the work of cultivation: the friary took one half of the crop: and the tenant paid to the Chapter annually forty bolls, forty pecks of bear, "mercat mett," as rent for his half of the crop. At this date the friars were selling bear at the rate of £12, 5s. for 10 bolls 1 firlot. Lease (Printed), *Black Friars of Perth*, p. 239.

[6] The Collector-General returned them at £60 in 1560.

[7] "Accompt book of Prior David Cameron, 20th June 1557 to 5th May 1559," *Rentals of the Black Friars*, pp. 243–76.

mented by the offertory and partial crop, could view the future with greater complacency than the less practical Observatine. As churchmen also, irrespective of a rule of life, the loyalty of the Observatines was in no way inferior to that of the Dominicans. Six of their number in Perth[1] preferred the exile forced on them by the Act of 1560 to continued residence in Perth; while the high percentage of apostasy among the Dominicans after 1560[2] was contributed to by Prior David Cameron and at least five of his brethren who accepted the pension granted to each recanting friar.[3] The remnant of Observatine history in Perth is brief. The friary site passed to the town under the Crown Charter of undisposed ecclesiastical properties granted on 9th August 1569 for the foundation of a hospital "for the poor, the maimed, persons in distress, orphans and infants deprived of their parents."[4] The Masters thereupon secured an annual rent of eight pounds from the magistrates for the use of the friary cemetery as a public burial ground;[5] and six years later, on 20th December, the Kirk Session, "ordainis in all time coming the yard of the Gray Friars to be buriall, and further that the outer yet, which is pendit, be transported to the inner yet."[6] For two hundred years it served this purpose, until, at the close of the eighteenth century, it was extended by the incorporation of what was then believed to have constituted the site of the old friary,[7] thereby utilising for this purpose the whole of the ground that had once belonged to the Observatines.

[1] Knox says there were eight friars on 11th May 1559.

[2] *i.e.* distinct from the cases of voluntary apostasy between the years 1528 and 1560.

[3] *MS. Accounts, Collector-General*, 1561 *et seq.* Michael Seill, George Eviot, John Johnnestoun, Patrick Neilson and John Gray. The four last mentioned drew £6, 13s. 4d. of this pension from the Hospital Fund as late as 1575, in accordance with the reservation contained in the Hospital Charter of 1569. *Hospital Accounts, ut supra.*

[4] *MS. Reg. Mag. Sig.* XXXII. No. 61, *infra*, II. p. 206. From this general grant were excepted the Feu Charter of the Carmelite lands granted by these friars to Patrick Murray of Tibbermure and also the liferent pensions previously granted to the churchmen out of their benefices.

[5] In 1573 they paid 20s. for the mending of the "bureall dik of the Greyfreris." *MS. Rentals and Accounts.* G. R. H.

[6] *MS. Extracts from the Session Register*, I. 244–45, made by the Rev. James Scott; Adv. Lib., Edinburgh.

[7] *Ibid.*

ROYAL BOUNTIES TO THE GREY FRIARS OF PERTH

I. Exchequer Rolls

Delivery of a victual stipend of eight bolls of wheat and eight bolls of barley by the Chamberlains of Fife, in terms of a variety of precepts, is recorded in the Rolls of 7th August 1516, 4th August 1517, 9th August 1518, 14th April 1524, 11th July 1525, 19th July 1526, 13th August 1527, 10th July 1528, 12th July 1529, 8th August 1530, 31st July 1531, 8th July 1532, 4th August 1533, 17th August 1534, 27th July 1535, 7th August 1536, 7th August 1537, 19th August 1538, 20th August 1539, 3rd August 1540, 1541, 27th July 1542, 12th July 1543.

A supplementary allowance of two bolls of wheat and barley from the bailiary of Errol is recorded in the Rolls of 3rd September 1538, 18th August 1539, 13th August 1540, 27th August 1541.

1550. The Comptroller pays John Roger, junior, in name of the Friars of Observance of Perth, receiving annually £5 in the Feast of the Circumcision of our Lord, during the will of the Governor, £10.

II. Treasurer's Accounts

1496. Item, the 1st day of November, to the Gray Freris of Perth, 40s.

1497. Item, the 19th day of December be the Kingis command, giffin to the Gray Freris of Perth, ane ducait and ane leo; summa, 33s.

1503. Item, the 10th day of Januar in Perth, to the Gray Freris there, 20s.

1503. Item, the 29th day of Junij, to the Gray Freris in Sanct Johnstoun, 42s.

1503. Item, the 17th day of October, to the Gray Freris of Sanct Johnstoun, 28s.

1504. Item, the 11th day of October, to the Gray Freris of Sanct Johnnestoun, 40s.

1527. Item, the 25th day of Julii, to the Freris Minoris of Perth in almous, be the Kingis precept, £10.

1530. Item, the 5th day of December, be the Kingis precept to the Gray Freris of Perth, £10.

1553, 22nd July. Be my lord Governor's command to the Gray Freris of Perth, £70.

LEGACIES TO THE GREY FRIARS OF PERTH[1]

1543, 6th May. Testament of Christian Balquhannan at Innerlochark, to the Friars Minor at Perth, 10s.

1544, 3rd May. Testament of Elizabeth Mury at Abruthven, to the Friars Minor at Perth, 20s.

1548, 30th May. Testament of Gavin Dunbar, Archbishop of Glasgow:—"Item, to the Friars Minor of Perth, £6, 13s. 4d."

1553, 1st June. (Beginning of Testament awanting). . . . "Minoribus de Pertht orandi . . . ij boll ordei, ij boll farine avenatice."

[1] *MS. Reg. Conf. Test.* G. R. H.

1553, 19th June. Testament of Marjory Lawson, Lady of Glenegeis, to the Friars Minor, 30s. (Perth?).

1558, 12th November. Testament of Mr. James France, chaplain, made at Dunblane, to the Friars Minor of Perth, 2 stones of cheese.

1523, 18th July. In his Testament, Robert Menzies of that Ilk directed his body to be buried in the choir of the parish church of Weyme founded by himself, and left 20 merks to its priests subject to the payment of his other funeral expenses, 40 merks for repairing the lamp of the choir newly founded by him where his body lies, to the Friars Minor 2 bolls of oatmeal, to the Friars Preachers 30s. He appointed Robert Menzies, his son and heir, to be his executor. Confirmed 7th April 1524. (Original in the Charter Chest at Castle Menzies.)

Aberdeen Friary Church in 1661. Gordon's Map.

CHAPTER IX—(*continued*)

OBSERVATINE FRIARIES

Aberdeen

This friary was a foundation of gradual growth dating from the year 1461, when Friar Richardson and his companion Friar Gerard of Texel reached Aberdeen in accordance with the preconcerted scheme of colonisation. Their arrival was doubtless attended by those incidents already observed in the southern burghs, and several laymen were quickly attracted by the personality of Friar Richardson. Two of his first converts were brothers, John and Walter Leydes, carpenters by trade; another was John Louthon, who afterwards undertook the office of scribe for this friary and for that at St. Andrews; the qualifications of William Marschell have not been preserved in the *Obituary Calendar*; and the opposite extreme in the social scale was reached when Alexander Merser, the young laird of Innerpeffry, chose the Observatine habit in preference to his father's lands and succession. For the next few years, this little community shared in the work of the parish and diocese with the full approval of Bishop Thomas; and in 1468–69 they came under the notice of Richard Vaus of Many in the course of their visits to the parish of Belhelvie. The idea of a permanent settlement and friary, in place of the informal habitaculum, generated in the mind of this devout patron—under the influence of Friar Richardson[1]—and, in the spring of 1469, he enlisted the sympathy and pecuniary assistance of the Town Council in his project.[2] Part of the site of the present Marischal College belonged to him at this date, and formed a suitable site for a friary on the outskirts of the town at the edge of the common—the burgh midden or refuse

[1] *Aberd. Ob. Cal.* [2] *MS. Inst. of Sasine*, 12th July 1471; *infra*, II. p. 220.

ground before the friary gates adding a realistic touch of squalor.[1] Following upon an agreement with Provost Alexander Chalmers to disburden the ground of an annual rent of twenty-six shillings and eightpence payable to one of the chaplains in the church of St. Nicholas, on 1st May 1469 Richard Vaus granted a Letter of Gift, in which he expressed his intention of assigning his land on the east side of the Gallowgate for the use of the friars, provided that the Pope, the King and the Bishop of the diocese gave their consent to his mortification.[2] The consent of the Holy See had already been given under the *Intelleximus te*; that of James III. was given at Edinburgh on the 9th of May;[3] and a fortnight later the foundation received the approval of Bishop Thomas, who had meanwhile arrived in the capital.[4] Accordingly, with the concurrence of the civic authorities, a formal charter was granted by Vaus on 20th July in the following terms:—

> "Richard Vaus of Many to all the sons of Holy Mother Church to whose knowledge these letters shall come, steadfast greeting in the Lord: Considering that we shall all stand before the tribunal of our Lord Jesus Christ to be rewarded after the manner of the deeds of our body, whether they be good or evil, it is good and expedient by our actions to provide against the day when we shall lay aside our outward form, so that we may reap with manifold increase in heaven that which we have sown upon earth: Know ye that I, for the furtherance of divine worship and for the weal of my own soul, the souls of my parents, my wife, my offspring, brothers and all and sundry my relatives by blood or marriage, alive as well as dead, in honour of Almighty God, the glorious Virgin Mary, St. John the Baptist, as also of that other confessor of Christ, Francis, and of all the Saints, have given, granted and confirmed, and by this present charter do give, grant and confirm to the Friars Minor, commonly called of Observance, in the Vicariate of the cismontane[5] division, serving the Lord according to the constitutions of Pope Eugenius, all and whole that my land lying in the

[1] This unsavoury frontage of 75 feet long by 11 feet wide remained an eyesore until 1552, when the magistrates feued it to certain burgesses for the erection of five booths or shops. In the charter it is described as "the pece of vast ground before the Gray Freiris quhair thei had wont to gadder myddingis and fulzie and culd nocht be kepit clene." Another clause in the same deed describes it as the place "where it has been customary to store all kinds of filth and rubbish." *MS. Charter*, 9th January 1552–53; *infra*, II. p. 229.

[2] *MS. Letter*, *infra*, II. p. 216.

[3] *MS. Letter*, *infra*, II. p. 217.

[4] *MS. Letter*, *infra*, II. p. 217.

[5] *i.e.* from the Scottish point of view.

Gallowgate of the Burgh of Aberdeen on the east side of the same, bounded by the land of David Colyson on the north, by the land of James Bissate on the south,[1] and by the common highways on the east and west; to be holden the said land with its pertinents, in a manner conform to the tenets of the said Friars of Observance, in pure and perpetual alms, along with all and sundry liberties, commodities and easements, with wood and stone, and buildings erected thereon and all adjacent thereto, as well those unnamed as named, both under and above the ground, adjoining or at a distance, belonging or which may justly be held to belong thereto in any manner of way, in all time to come, as freely and quietly, fully, entirely, honourably, well and peacefully, in and through all things, as any land or tenement within the kingdom of Scotland or furth thereof, by the said Friars of Observance, after the manner lawful and possible to them and in harmony with their tenets. And the said land is given, granted and is to be possessed for the future without revocation, reclamation, or any contradiction to be made hereafter in all time by me or my heirs or assignees or any others whomsoever in our name or upon our behalf, so that the friars, more sincerely serving God and themselves, may minister to the glory of Almighty God and all the saints, and by their beneficent example reveal to their flock the pathway of salvation, as also by this means they may assist me and my parents, wives, offspring, brothers, all and sundry relations by blood and marriage, as well those in life as in death, so that both to themselves in their occupation of the said land, and to us through the grace of the divine compassion, may come the abundant fruits thereof with constant increase and perpetual multiplication thereof. And, since the aforesaid land or tenement is obliged in payment of an annual rent of twenty-six shillings and eightpence to the chaplain of the altar of St. John the Baptist in the parish church of St. Nicholas of Aberdeen, the provost, councillors and community of the said burgh of Aberdeen are bound and obliged, and by these presents they bind and oblige themselves, to relieve and disburden the said land, and the foresaid friars dwelling thereon, of the said annual rent, and to pay the same to the said altar and chaplain thereof and his successors at the appointed terms out of their own treasury and the common good of the said burgh, until they shall have infefted the said altar and the chaplain thereof for the time in a like annual rent secured over an appropriate site and lands. And I, the aforesaid Richard Vaus, and my heirs and assignees shall warrand, acquit and for ever faithfully maintain the foresaid land with its pertinents against all mortals as well to the foresaid Friars of Observance as to their successors, in and through all things according to the premises. In witness of all which my seal, together with the common seal of the said burgh, is appended to these presents at the said burgh of Aberdeen the 20th day of July 1469;

[1] In the letter of gift (*infra*, II. p. 216) the southern boundary is said to be the lands of the heirs of the deceased Duncan Patrickson.

witnesses, Alexander Chalmer, Andrew Allan,[1] Robert Colonie[2] and John Vaus,[3] burgesses of the said burgh, along with sundry others called as witnesses to the premises."[4]

It will be observed in the dispositive clause of this charter that the ultramontane vicariate of the Observatines was selected as the disponee, and this deference to the proprietary scruples of the individual friars settled in Aberdeen was continued in the relative Instrument of Resignation directed to the donor's kinsman, Alexander Vaus, Official of Aberdeen, and bearing that he "gave over and assigned" the land "to the said Alexander *in name and place of the religious men*, the Friars Minor who are about to take up residence there, and to repair the buildings for the worship and glory of God."[5] The transformation of the buildings, the erection of cells for the brethren and of a dwarf belfry for the church, were at once proceeded with, Friar Walter Leydes taking an active part in the construction of these adjuncts.[6] In 1471 the friary was ready for occupation, and the final ceremonies necessary for the consolidation of the title to the lands and buildings were carried out. Alexander Vaus visited Edinburgh, and, at ten o'clock forenoon on the 8th of May, he demitted his trust in the chapter house of the Grey Friary, by resigning the lands and writs into the hands of John de Mitia,[7] who had been sent to Scotland on 7th February preceding as the Visitor or Commissary of the ultramontane Vicar General, Friar Francis Blonde.[8] Thereafter, Provincial David Crannok (Carnok) accompanied the Official back to Aberdeen to assist at the opening of the friary on the forenoon of 12th July. The ceremony took place in the presence of

[1] The Provost of Aberdeen in 1471.

[2] A neighbouring owner and benefactor of the friars.

[3] One of the magistrates who performed the ceremony of granting sasine when the friary was completed in 1471.

[4] *MS. Transumpt of Charter of Donation*, *infra*, II. p. 211.

[5] *MS. Instrument of Sasine*, *infra*, II. pp. 215–21. [6] *Aberd. Ob. Cal.*

[7] *MS. Instrument of Resignation*, *infra*, II. p. 218.

[8] *MS. Letter*, *infra*, II. p. 219. John de Mitia was the Warden of the friary at Limburg, in the Province of Cologne, and his presence is an interesting illustration of the connection which the Scottish Observatines maintained with their parent Province.

Provost Allan, the magistrates, and a number of the leading citizens. Sasine and the symbols of corporal possession were granted by Bailie John Vaus to Father Crannok, as the Superior of the Observatine Province, and at the same time the provost graciously discharged the ground annual in accordance with the obligation of his predecessor in office.[1] At this point the narrative of the investiture, and of the friary hospitality to those who acted as witnesses, has no further place in the unwonted plethora of legal writs which describe this unique example of Franciscan conveyancing. Nevertheless, it was by no means the only occasion on which the Chapter endeavoured to preserve the corporate conscience unsullied in relation to the Rule; and, as an example of diligent observance of their statutes, it is interesting to note that the same formality was observed as late as 1504, when sasine of some additional ground was granted to another Vicar-Commissary instead of to the Warden on behalf of the Chapter.[2]

For so important a centre as Aberdeen the whole friary establishment was soon found to have been conceived on too small a scale, and the ground provided by the charity of their patron proved inadequate to meet their increasing needs.[3] Relief was accordingly obtained by the incorporation of some of the adjoining properties. The Charter of Confirmation granted by James III. on 21st December 1479[4] described the subjects as "the site of the place belonging to the said friars in our burgh of Aberdeen, and the ground and lands contained within the said place given to and purchased for them by the community of the said burgh of Aberdeen, and by the late Richard Vaus of Many, James Bissate, or other devout persons whomsoever." In the charter of 20th July 1469, the lands of David Colison and James Bisset were specified as the northern and southern boundaries of the

[1] *MS. Instrument of Sasine*, dated 12th July 1471; *infra*, II. pp. 215–21.

[2] *MS. Registration of a Grant by Sasine*, 12th February 1503–4; *infra*, II. p. 224. In a charter of an additional piece of ground purchased for the friars in 1494, the ultramontane Vicariate was again specified as the disponee, *infra*, II. p. 221.

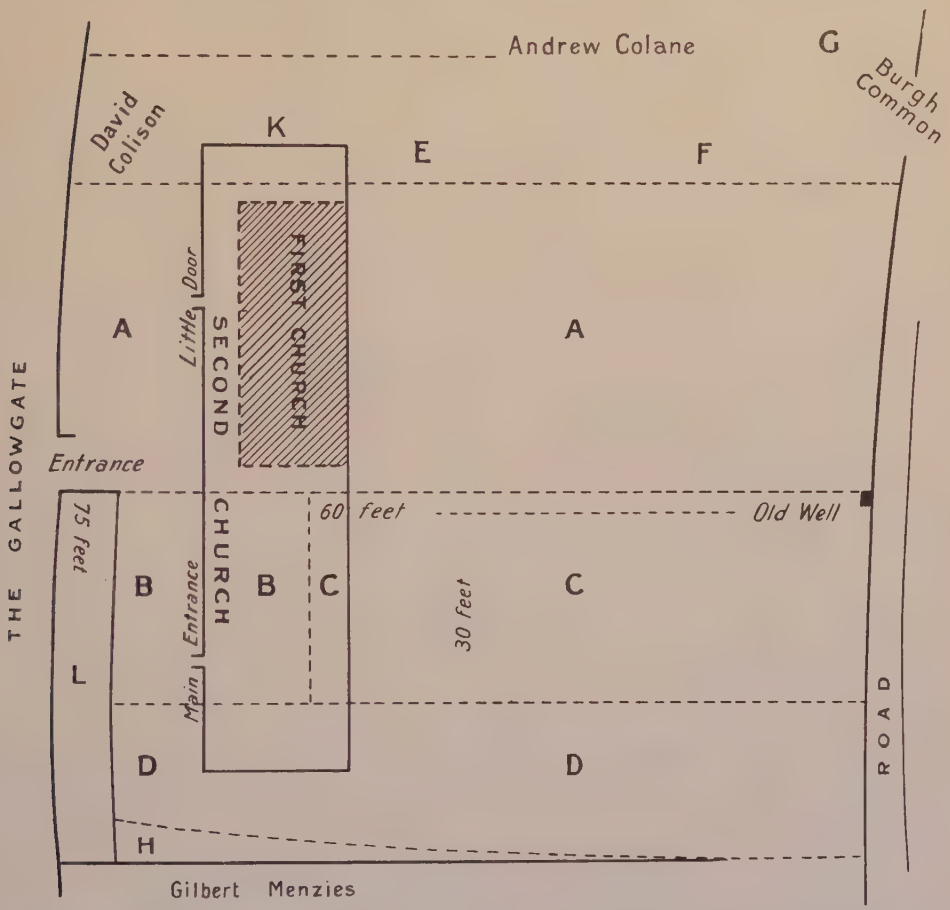
[3] Its value was £100 Scots. *Aberd. Ob. Cal.*

[4] *MS. Reg. Mag. Sig.*, IX. No. 2; *supra*, p. 62.

friary site, so that Bisset must have conveyed a portion of his land to the friars before the date of the Crown Charter. Subsequent conveyances enable us to identify this gift as the west side of his tenement abutting on the midden, and it was converted into a garden for the infirmary of the friary. The remaining portion of his land—then measuring 30 feet in breadth and upwards of 60 feet in length—was purchased on behalf of the friars, at his death, by Walter Bertram, the generous benefactor of the Franciscans settled in Edinburgh and Haddington;[1] and a formal Charter of Donation was granted on his behalf to the ultramontane vicariate by the Town Council in 1494.[2] Ten years later, their new neighbours, Mrs. Margaret Candoche or Kanduly and her husband Alexander Modray, made a gift of their strip of land, which, like that of the friary and of the late James Bisset, was bounded, east and west, by the highways, and included the southern portion of the midden.[3] This gift was burdened with an annual rent of two merks payable to Andrew Kennedy; but the charitable creditor freed the ground of all encumbrances by abandoning his latent right in favour of the friars, who were now owners of his security lands.[4] The southern boundary in this case had been ill defined on account of the midden, and differences arose with Gilbert Menzies, their new neighbour on the south. Sir William Keith of Inverugie was chosen arbiter, and a deed of agreement was then drawn up between Menzies and Warden Childe, whereby the friars acquired a narrow strip of the land under dispute, and were obliged to replace a timber fence, temporarily erected by Sir William Keith, by a stone wall running from the western gable of Menzies' house to the south end of the midden.[5] This line marked the southern limit of the friary lands at the Reformation,[6] and the cost of erecting the wall was defrayed by William, third Earl of Erroll—"a nobleman who was ever ready to provide for all the needs of the friars, and annually bestowed upon them

[1] *Supra*, pp. 181, 280.
[2] *MS. Charter*, *infra*, II. p. 221.
[3] *MS. Instruments of Resignation, Registration of Sasine, etc.*; *infra*, II. p. 223.
[4] *Ibid.* at p. 224.
[5] *MS. Instrument of Agreement*, 2nd April 1505; *infra*, II. p. 225.
[6] *Aberdeen Council Register*, 18th April 1561.

ROUGH GROUND PLAN (*not drawn to scale*), showing relative positions of the areas of ground gifted to the Grey Friars of Aberdeen.



A Original site (including Patrickson's property), gifted by Richard Vaus in 1469.

B Western portion of James Bisset's tenement, gifted by him before 1479. In 1553–54 the portion behind the northmost booth **(L)** was utilised as the friary cemetery (*Infra*, II. p. 231 n.).

C Walter Bertram's gift, 1494, being the eastern portion of James Bisset's tenement.

D Mrs. Modray's gift, 1503.

E David Colison's gift for enlargement of cloister (before 1481).

F Gift of Thomas Myrton, as executor of Bishop Elphinstone, in 1515.

G Andrew Colane's barn, gifted by Town Council in 1539.

H Strip acquired by arbitration in 1505.

K Gift of William Stewart, afterwards Bishop of Aberdeen.

L Site of the burgh midden, afterwards feued to three burghers (in 1552) for the erection of dwarf booths.

large doles of victuals and meat."[1] It was probably about this date that another permanent wall, 75 feet in length, was erected, and ran in a southerly direction from the front gate of the friary parallel to, and 11 feet distant from, the Gallowgate, so as to shut out the view of the midden. In 1552–53 the magistrates, in the interests of cleanliness, undertook the removal of this nuisance in one of their public streets, and feued the ground to three burgesses for the erection of five booths.[2] The friars, as owners of the wall, gave their consent to this charter, which stipulated that the booths should not rise above the copestone of the wall (4⅜ ells Scots), so as to preserve the view of their new church from the Gallowgate,[3] and that no windows or chimneys should be opened in it overlooking the graveyard. By the year 1505, the eastern wall of the friary adjoining the burgh common had come to be used by the poor of the neighbourhood as a drying-ground for their clothes when washed; and, to put a stop to this practice, a draconian edict was issued by the Town Council, providing that "nay maner of persone nor personis lay nor hing na maner of stuff, gair nor guddis on the wall of the place of the Grey Freris *before the takin of the Haly Croice*; and quha happinis to do the contrar, the gudis sal be eschet and thei sale pay ane amerciament of the court to the bailzes uneforgevin for the first time, and the secund tyme thai sal be expellit the toune and thair gudis eschet."[4] On the north side, the friary lands underwent considerably less extension, portions of the backland of David Colison's tenement alone being acquired at different dates. This house faced the Gallowgate, and, in 1481, when a councillor of the burgh, he facilitated the enlargement of the cloister by a gratuitous cession of the plot[5] marked E upon the plan. His son shortly afterwards constructed a passage to the choir. In 1515, Thomas Myrton, Archdeacon of Aberdeen, as executor of the late Bishop Elphinstone, extended

[1] *Aberd. Ob. Cal.* His mother was the Countess who came to the relief of the Dundee friars during the famine of 1481.

[2] *MS. Feu Charter*, *infra*, II. p. 229.

[3] In later years the restriction upon the height of the booths was ignored, and the buildings which replaced them obscured the south or south-west end of the Grey Friars Church.

[4] *Aberdeen Council Register*, 27th July 1505.

[5] *Aberd. Ob. Cal.*

the garden ground towards the north by purchasing for seventy merks the plot F, lying to the east of the cloister and south of Andrew Colane's land,[1] and shortly afterwards Robert Schand, Rector of Alness, gifted the north part of the lower garden,[2] which was then enclosed by a wall built out of the money bequeathed to the friary by another clergyman, William Crichton, Rector of Oyne.[3] During the building of the second church, 1518–32, an additional piece of ground, K, to the west of the cloister was purchased at a cost of forty pounds as the site of the north end of the church by William Stewart,[4] who afterwards succeeded Gavin Dunbar as Bishop of Aberdeen. Finally, in 1539, the Town Council acquired for the friars, by excambion, the barn G, belonging to the above-mentioned Andrew Colane: "The prowest, balzes and haill towne consentis and assentis that the Gray Freiris of this burght get the barne perteyning to Androw Cullane lying at the eist syd of the said burght next adiacent to thair yard, to thair profyt and use as thai think expedient, to dispone thairupoun for suffrage to be done to thaim in all tym to cum; and that the said Androw get als mekill rowme of the townis commonty besyd the ald hattis (huttis) behind the Gray Freris besyd the said Androw's croft to byg him ane uder barne upoun of the same lynth and breid."[5] At the Reformation the friars therefore possessed a frontage of 135 feet to the Gallowgate, 75 feet of which was occupied by the booths, from which they received no rent, and from east to west their boundary extended on the curve about 120 feet.

Little can be said of the original friary buildings which abutted on the east side of the first church. They were of small extent, and the process of enlargement continued in proportion with the charity of those who sought the ministrations of the friars. The infirmary stood in the south-east corner of the original site, and was replaced by a new building by Bishop Stewart,[6] 1532–45, after the infirmary garden had

[1] *Reg. Episc. Aberdeen*, II. 310; *Aberd. Ob. Cal.* He was authorised to spend eighty merks on the purchase of this land; *infra*, II. p. 228.
[2] *Aberd. Ob. Cal.* [3] *Ibid.* [4] *Ibid.*
[5] *Aberdeen Council Register*, 23rd June 1539. [6] *Aberd. Ob. Cal.*

been used as part of the site of the new church and graveyard. In 1481, the larger part of a new dormitory was built by Robert Colane, and the gifts of Duncan Scherar, Rector of Clat, William Chalmer of Balnacrag, John Maitland, and Andrew Rainy of Davolz[1] in the beginning of the sixteenth century seem to indicate that considerable structural alterations were effected upon the inhabited buildings about this time. In the matter of church furnishings, the seven Observatine friaries erected before 1493 found a lavish benefactress in Elizabeth Vindegatis, whom they admitted to the Third Order in recognition of her gift of 3000 merks Scots expended upon chalices, ornaments, candlesticks, images, bells and other necessaries.[2] Another tertiary, William Ogilvy, Chancellor of Brechin, left many books to the friary library at his death in 1480, and this gift was supplemented fifteen years later by James Lindsay, Archdean of Aberdeen, who added seventy volumes and a large chest.[3] The first church possessed at least two subsidiary altars, one in honour of the Blessed Virgin and the other in honour of St. Francis, to which chalices were given by Chalmer of Balnacrag and Lady Elphinstone respectively.[4] This church was erected wholly on the plot comprised in the charter of 20th July 1469, and did not therefore exceed 60 feet in length. In 1505, as we have already seen, the friars had acquired in all an additional 75 feet of ground towards the south, and it was then possible to proceed with the enlargement of this diminutive building. Several notabilities of the district interested themselves in this scheme, which was carried out by the munificent Bishop Gavin Dunbar and Alexander Galloway, Rector of Kinkell, his

[1] *Aberd. Ob. Cal.*, £40, £20, 100 merks and 20 merks respectively for the building of the convent.

[2] *Ibid.*

[3] *Ibid.* Professor Stuart claimed that the library of the friary was incorporated with that of the Marischal College, but it is to be feared that his statement or identification of the volumes cannot be supported by any definite evidence. During the thirty-six years which elapsed between the surrender of the friary and its transference to the Earl Marischal, the buildings were put to a variety of uses, and a minute examination of the manuscript books, other than the *Obituary Calendar*, has failed to discover the slightest mark or indication which could be held to connect them with the Observatines of Aberdeen. *Vide* Summary and Description of the volumes by Mr. P. J. Anderson, *infra*, II. p. 237.

[4] *Ibid.*

architectural associate in all such undertakings. In addition to the pecuniary assistance received from William Elphinstone, Lady Egidia Blair of Row,[1] and William Stewart, his successor in the See, he expended 1400 merks in the demolition of the old church and the erection of another in its place, measuring 115 feet in length and 27 feet 7 inches in width. As befitted its Franciscan character, it was of simple design; yet the simplicity and purity of its lines, combined with the great south window and the quality of the workmanship bestowed on its buttresses and mullioned windows on the west, placed it within the pale of the minor creations of architectural genius. Its north end commenced on the land of David Colison's heir, and, running in a southerly direction towards the south end of the midden over the land acquired from James Bisset and Mrs. Modray, it incorporated within its walls the whole of the first church, of which the high altar and burial ground in front of it remained in their original position and were extended in length and breadth.[2] It is more than probable that the eastern wall of the first church was not disturbed in regard to the space abutted on by the recently repaired friary buildings; and the building plan of Bishop Dunbar was completed by the erection of a building displayed in the plan of 1642 and known as the north house, out of the charity of John Flescher, Chancellor of Aberdeen. Thus, these humble sons of St. Francis were installed in a building which the citizens of Aberdeen regarded with justifiable pride; and the extraordinary amount of assistance which they received from the clergy of the diocese cannot fail to attract attention. Clearly, they were not regarded as intruders, but as welcome auxiliaries; and, when it is remembered that the Bishops of Aberdeen have always been regarded as holding

[1] Wife of James Kennedy of Baltersan and a generous benefactress to the Observatines of Ayr.

[2] Professor Cooper (*Transactions of the Ecclesiological Society*, 1904) suggests that, on account of certain masonry in the east wall of the second church, the first church was oriented. This seems impracticable, (1) because the east wall of the second church was not more than forty feet from the Gallowgate, and the first church must therefore have been little more than thirty feet in length and huddled up against the north boundary; (2) a change from west and east to south and north would have entailed the total reconstruction of the inhabited buildings of the friary, as those abutted on the east wall.

an honourable position in the Roman hierarchy, their active personal support of the friars is a significant sign of the high esteem enjoyed by the latter among the burghers.

During these years, a considerable amount of information concerning the personnel of the friary may be derived from the surviving pages of the *Obituary Calendar*. Friar Gerard of Texel was its first Warden in 1471, and, as an illustration of the migratory habits of the individual Observatine, was succeeded at some distance of time by Friar George Lythtone, who filled a similar office in several other friaries before his death in 1499. Another Warden, Friar John Lytstar, was twice elected to the office of Provincial Minister, and the Deed of Agreement with Gilbert Menzies shows that Friar Childe was Warden in 1505. Friar Robert Bailie, a man of profound humility singularly beloved by the friars, was one of his immediate successors, 1510; Friar James Winchester, who had been Warden of Perth in 1549, held the same office in this friary in 1553, when he died in France, and Friar John Roger, the last Warden, resigned the friary into the hands of the magistrates on 29th December 1559, before leading his brethren into their long exile.[1] From the list of twenty-five friars[2] whose names have been preserved, some idea may be formed of the quaint contemporary opinion of those who merited special mention; but perhaps the greatest value of the *Obituary*, within its restricted limits, is the light which it throws upon the practical nature of a Franciscan community. Layman and cleric alike took their share in every phase of menial work, in which, like the friars of Essen, those of Aberdeen received the womanly assistance of one Mariota Chalmer, now known to us as an excellent mother of the convent and, as a member of the Third Order, buried in the Franciscan habit before the friary altar of the Virgin. Instances abound of lay brothers who observed the distinction laid down by Haymo of Faversham in considering honest work in sanctified surroundings as a phase of religion. Thus, the community benefited from the exercise of the trade practised by the Friars Leydes before they renounced citizenship to join

[1] *Infra*, pp. 322, 323. [2] *Infra*, p. 330.

Friar Gerard. John Leydes attended to the repair of the buildings, and, when his services were not required in his home friary, he set out to help in the construction of that at Elgin and in the repair of others. There are no indications that agriculture was practised on a considerable scale at Aberdeen, as at Edinburgh, Dundee or Dumfries; but the notice of Friar John Thomson proves the persistence of the old custom of the friars going out as servants or humble labourers to earn food as the wage of their work. Friar Louthon was one of the itinerant scribes of the Province, and the trade of Friar Patrick Stalker has not been put on record. Friar John Strang is an exception, in that he was a priest and at the same time a skilled worker in glass. Like many others, his energies found scope in several friaries. Perth, Ayr and Elgin were beautified by specimens of his work; but, looking to the date of his death, it is to be noted that he took no share in the glazing of the great south window in Aberdeen or of any of the windows on the west side looking out into the Gallowgate. Less individuality is to be observed among the clerical members of the community, who are frequently recorded as the confessors of the clergy and of the students under the sanction of the Bishop. Many of them spent a period of their brotherhood at St. Andrews and Edinburgh before settling in Aberdeen, and Friar William Fleming is a notable case of longevity closely rivalling Provincial Ludovic Williamson, who attained his jubilee in the Order. Father Hay makes particular reference to this characteristic, and a glance at the summary of Conventual Friars[1] will show that it was a common occurrence for the Wardens to live thirty years after their appointment. It would, however, be prudent to accept with reserve his statement of the average number of the community in this friary. It is placed at twenty-four, whereas twelve to sixteen was probably the outside limit. Their activity was not confined to the city and its immediate neighbourhood. They wandered in pairs from town to town, and, in particular, the friaries at Elgin and Ayr were offshoots from

[1] *Supra*, pp. 258–61.

the more important centres of Aberdeen and Glasgow. In course of time these itineraries became stereotyped, and certain houses were recognised as regular hospices where the friar was certain to meet with a friendly welcome. Two such cases are recorded in Brechin, where two clergymen, William Ogilvy, Chancellor, and John Lees, Chaplain of the Tertiary Congregation there, were successively known as the hosts of the friars, and were admitted to the privileges of the Third Order under Letters of Confraternity.[1]

A relative estimate of the resources of this friary may be formed from the total absence of local evidence of mendicancy —which Father Hay asserts was little practised—and from the declaration of Commissioner Mar, that the town had received "na gift of the freris chaplainries nor annuellis."[2] Attention has already been drawn to the Observatine observance of the Rule, which forbade the acceptance of fixed sources of revenue, and the Aberdeen friars carried their unpractical detachment to its utmost limits.[3] At the Reformation they abandoned everything within the space of a few hours, and, consequently, the officials of the reformed government passed no animadversion upon their dishonest alienation of lands and annual rents. It was otherwise in the case of the Dominicans and Carmelites of Aberdeen, who occupied the period between 11th May and 29th December 1559 in disposing of their land and annual rents to private persons; while the remainder was claimed by various burgesses, who, through the negligence of the burgh officials or the connivance of the friars, obtained Chancery brieves infefting them in the

[1] *Infra*, p. 384. [2] *MS. Rental of Chaplainries.*

[3] The Collector of Thirds from 1561 onwards disclosed no ground annuals or victual stipend from private lands in their possession. He returned the rents of the other friaries at the following sums :—

	Rents.			Victual.			
	£	s.	d.		ch.	bs.	fs.
White Friars . . .	78	11	4	Bear.	1	5	2
Black Friars . . .	38	6	8	„	2	9	0
Trinity Friars . . .	54	1	1½			...	

John Cristesoun, Provincial of the Carmelites, Andrew Abircrumby, Prior of the Dominicans, and fourteen other friars of these two Orders remained in Scotland in receipt of the customary pension. *MS. Accounts, Collector-General and Sub-Collector*, 1561–63.

lands or rents as heirs of the original donor. This form of dishonesty, "after the abolition of the popish religion and superstition," was vigorously assailed by the draughtsman of the Crown Charters, and in 1583 all such alienations and infeftments in Aberdeen were rescinded by the Privy Council.[1] In the absence of this source, the *Obituary* indicates payment in kind for the services of such friars as followed the example of Friar Thomson. The Exchequer Records place the Observatines of Aberdeen on the same footing as their brethren in St. Andrews and Glasgow in regard to a permanent allowance from the Crown; and casual donations from the royal purse ranged from nine shillings for half a stone of wax, to sums of forty shillings—reminiscences of visits by James IV. to the granite city.[2] In 1548, Governor Arran sent a gift of £4, and again in 1552, "by my Lord Governor's special command," the friars received a sum of £20. It is now impossible to ascertain the value of the "Bishop's Charity" or of the annual municipal allowance, if any; but the intermittent charities of their sympathisers may be estimated from the summary of *inter vivos* and *mortis causa* gifts towards the erection and maintenance of the friary buildings, ornaments and vestments.[3] It is of interest to note, that the Observatines of Aberdeen were instrumental in attracting the attention of James IV. to the services rendered by the Dutch Grey Sisters of the Third Order to Scotsmen at Campvere. In this port, which was the great *entrepôt* of trade between Scotland and the Low Countries during the fifteenth and sixteenth centuries,[4] these ladies had established a hospital where they nursed and tended the sick of all nations and both sexes, unhampered by the vow of perpetual cloister

[1] Crown Charter, James VI. to the Burgh of Aberdeen, 26th October 1583. Anderson, *Charters, etc.*, pp. 71–80, at p. 78; *e.g.* the Carmelite revenues returned at £78, 11s. 4d. in 1561 only produced £48, 11s. 4d. in 1567. Captain Hew Lauder secured an assignation from the Crown of the thirds of the revenues derived from the Black and White Friaries. *MS. Accounts, Sub-Collector*, Div. I. 1573.

[2] *Treasurer's Accounts*, 10th October 1497, 25th October 1501, 3rd November 1504, 27th November 1505.

[3] *Infra*, pp. 332–41.

[4] The Conservator of Scottish privileges in the Netherlands was commonly spoken of as the Conservator of Campvere.—*Ledger of Andrew Halyburton.*

taken by the Sisters of St. Clare.[1] King James was quick to recognise their services, and from 1501 sent them a barrel of salted salmon annually through the "Friars Minor of Observance of Aberdeen." The gift varied in value from forty to fifty-five shillings, and was continued until the year 1523, when it was diverted by the Lords of Exchequer to the Dominican Sisters of St. Catherine of Siena at the Sciennes, Edinburgh.[2]

The single incident in general history with which the friary is now identified occurred in 1530, when a long-standing feud between the magistrates of Aberdeen and John, sixth Lord Forbes, terminated in a "strubbling" of the town by the baron's followers, on account of the withdrawal of an annual gift of a tun of wine paid by the magistrates to Forbes in return for the preservation of their salmon fishings in the Rivers Dee and Don. In reality, Forbes was himself the greatest contravener of the rights that he had been chosen to protect; and, to legalise his depredations, he claimed the additional right to a half net's salmon fishing in the Don.[3] A vigorous but unsuccessful attack on the town by his kinsmen, John Forbes of Pitsligo and Arthur Forbes of Brux, followed the refusal of the magistrates to recognise this claim. The invaders were worsted by the burghers in the street fighting, and fled for refuge to the Grey Friary, after one of their party had been killed and several wounded. Here, in a state of passive siege, they enjoyed the right of asylum until the following day, when the citizens permitted the marauders to retire from the town, probably on the mediation of the friars, to whom Forbes of Pitsligo is recorded as having been a "great friend during his life and at his death."[4] There is

[1] In the *Exchequer Rolls* these Regular Tertiaries are indiscriminately described as Sisters of St. Clare and Sisters of St. Martha. The latter designation is correct, *vide* relation of their Rule to that of the Claresses at p. 389.

[2] *Exch. Rolls*, *infra*, p. 342.

[3] *Aberdeen Council Register*, 20th May 1530.

[4] *Aberd. Ob. Cal.* He died on 16th May 1556. Love for the Observatine Order must have been hereditary in the family. Two sons of the eighth Lord Forbes joined the French Capuchin branch, both assuming the title of Brother Archangel: William, who entered the Capuchin Convent at Ghent in 1589, where he died on 21st March 1592, and John, who took the habit at Tournai in 1593. Having survived his father for a few weeks, he became the titular ninth Lord Forbes. He is

nothing to indicate how the magistrates viewed the rôle of the friars in this affray, but the prosecution of the Forbes faction was at once decided upon. On 31st July, the provost was deputed to appear before the King and Council to demand justice against them;[1] on 13th December the King's letters were issued at Perth, ordering them to find security for £2000;[2] and on 26th January following, the father and his three sons with their accomplices were summoned to underlie the law for their share in the brawl. In default of appearance, they were put to the horn.[3] Another instance of "hurting and blud-drawing" within the town by Jerome and James Chene occurred in 1546–47. In the Burgh Court the prisoners claimed their privileges as clerks in bar to the jurisdiction of the magistrates, only to be summarily convicted of deforcement and contempt. Thereafter, in deference to their contention, the question of their status, in relation to the punishment to be inflicted, was referred to four arbiters and an "oddman." This commission was directed to meet in the Grey Friary,[4] and is one of many instances which show how freely the citizens resorted to the friary, as fitting surroundings in which to conduct their arbitrations and carry out the formal ratification of their agreements.[5]

More fortunate than their brethren in the south, the friars of Aberdeen were permitted to continue in peaceful exercise of their religion for a further period beyond the Feast of Whitsunday 1559, prescribed in the "Beggars Warning." At last, however, Reformation reached the town, and, on the forenoon of 29th December, Warden John Roger received definite intelligence of the approach of a band of militant

said to have converted 300 Scots soldiers to Catholicism at Dixmude, and "another body of Scottish heretics to the bosom of the Church at Menin." Cf. Balfour Paul's *Scots Peerage*, IV. 58–60.

[1] Factory and Commission, Anderson, *Charters, etc.*, p. 389. On 17th August the magistrates successfully defended an action brought against them by the laird of Brux, one of the invaders, for imprisoning him and five of his followers in the friary for twenty-four hours.

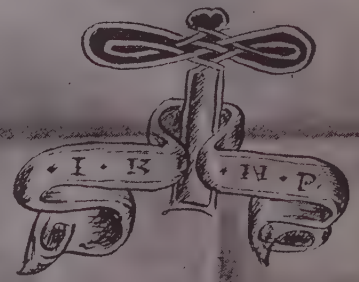
[2] *Aberdeen Council Register.*

[3] Pitcairn, *Criminal Trials*, I. 1, 172; *Diurnal of Occurrents.*

[4] *Aberdeen Council Register*, 21st March 1546–47.

[5] *Vide* summary of analogous cases drawn from *MS. Notarial Protocol Books*, G. R. H.; *infra*, p. 484.

In dei nomine amen per hoc presens publicum instrumentum cunctis pateat euidenter et sit notum quod anno incarnationis dominice millesimo quingentesimo quinquagesimo nono mensis vero decembris die vigesimo nono indictione tertia pontificatus pii pape quarti anno primo In mei notarii publici et testium infrascriptorum propria personaliter constitutus religiosus vir frater Joannes rogeir gardianus fratrum minoritarum burgi de abirdene qui publice exposuit qualiter certi enormes hereses quibus regni Scotie quo annno Deus sit distrupserunt et dissipauerunt templa hospitia edes et ortos monasteriorum et locorum religiosorum regni eaq; funditus euerterunt. et solo equarunt. Et (vt fertur) certi eiusdem secte homines, regno capite destituto in absentia dni nri regnie Jam pridem venturi sunt obtenere et dissipare templa loca hospitia edes et ortos secundum fratrum minoritarum quibus Innascribus vt asserunt vtebatur nequit Ideo cum consensu et assensu totius sui capitularitur congregati resignauit Quibusdi hospitia loca edes et ortos Ipsis incumbentia Infra Dictum burgum Jacentia In manibus Dandre war vicinis ballliuorum Dicti burgi In fauorem prepositi ballliuorum consulum et communitatis prefati burgi de abirdene pure et simpliciter. Promisso tamen quod si contigerit supremam Dnam vram regnum restituere reliquie fratribus religiosis eorum loca templa vel edificia q ipsis fratribus minoritis similis restituto fiet absq; eorum preiudicio aut indignatione regie maiestatis Quibus libus et singulis thomas nicolsone ballliuus procuratorio nomine totius communitatis Dicti burgi ol me notario publico subscripto sibi fieri petit instrumentum seu instrumenta vnum vel plura Acta erant hec In aula Dictorum fratrum minoritarum hora tertia post meridiem sub anno mense die indictione et pontificatu quibus supra presentibus Ibidem gilberto menzes patricio menzes patricio malysone colino porterfeld georgio Lesly Joanne gareaucht hilzelmo Barclay hilzelmo crausurd Hallibrando menzes cum diuersis aliis testibus ad premissa vocatis particulariter rogatis



Et ego magister Joannes' kinnedy clericus dyocesis aberdonen sacra auctoritate Apostolica notarius publicus ac scriba dicti burgi de abirdene premissis omnibus et singulis sic vt premittitur dictis et fiebat vnacum prefatis testibus personaliter existens dum sic et singula sic fierent et dicerentur presens interfui ea q in notam sumpsi inde hoc presens publicum instrumentum manu alterius fideliter scriptum exinde confeci signoque meo solito consueto signaui et subscripsi In fidem et testimonium premissorum rogatus et requisitus

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Instrument of Resignation under which Warden John Roger infefted the Town Council and Community of Aberdeen in the possessions of the Grey Friars within the burgh. Dated 29th December 1559.

reformers from Angus and the Mearns. Considering the now equivocal temperament of the burghers, and the previous experience of this class of depredator, peaceful surrender of their home was the only course open to the garrison of the last Observatine stronghold in Scotland. Friar Roger hastened to the Town Hall to communicate their intention of vacating the friary in favour of the magistrates and community; and, at three o'clock in the afternoon, the Council and citizens assembled in the chapter house to witness the resignation of the friary, now despoiled of the sanctity with which it had been clothed for nearly a century. They were about to replace the voluntary services of the Mendicants by a State Church, and one spiritual absolutism by another no less stern. From the midst of his brethren, Friar Roger explained the dangers which threatened the friary, and the course of action which the brethren had been forced to adopt. Certain wicked men, animated by a spirit which God alone could understand, had destroyed and levelled to the ground numerous churches, hospitals, monasteries and other religious houses; and now, according to common report, certain of that sect threatened their house with a similar fate. He was wholly unable to resist these invaders, and, therefore, with the consent of his Chapter, he resigned the whole of the friary property into the hands of Bailie David Mar on behalf of the magistrates and community of the burgh. He made but one stipulation: "If it shall happen that our Sovereign Lady, the Queen, shall restore to the rest of the religious brotherhoods their places, churches or buildings, then similar restitution shall be made to the Friars Minor, without prejudice to them or incurring the wrath of the Queen."[1] In the absence of the mob bent on destruction, this singularly pathetic scene closed with the friars' last prayer in front of the high altar before they passed out through the western portal into the Gallowgate, to seek shelter among a people whose gratitude for past services was represented in a gift of £24 by the Town Council,[2] and the temporary shelter of their houses to their now homeless pastors. One of them, at least, did not long survive the severance. Friar Alexander Gray

[1] *Instrument of Resignation, infra*, II. p. 233. [2] *Aberdeen Council Records.*

died in his brother's house on 10th January following, and was buried in his habit before the altar of St. Catherine in the Church of St. Nicholas.[1] Three members of the friary turned to the new faith in preference to exile in the Netherlands. Two of them, John Geddy and William Lamb, were appointed custodiers of their old home on behalf of the Town Council,[2] in terms of a precept from Queen Mary which infefted them in a pension of ten pounds for these services.[3] The Collector's Accounts appear to indicate that they held this office during the years 1561 and 1562; and in 1563 they were allowed the full pension of £16 which the third apostate friar, Alexander Harvey, had enjoyed for the past three years.[4] This allowance continued to be paid by the Collector until 1567, when the magistrates assumed responsibility for future payments as a temporary burden upon the Crown grant of the friary and its pertinents, to be used as a hospital for the poor, impotent and orphans.[5] The inventive Dempster[6] notices two others, Thomas Gray, at one time Warden, and John Patrick of Banff, both of whom left the country in 1560. The former accompanied the section of the friars who quitted the Netherlands for Rouen in 1579, and is credited with the authorship of an *Admonition to Novices*, a treatise on the *Universal Philosophy of Aristotle*, and a *Commentary on Four Books of the Sentences*. All other examples of Franciscan longevity pale before this remarkable friar, who attained the ripe age of 137 years, in full enjoyment of an active memory, unimpaired sight and digestion, while an infirmity of the feet alone betokened physical debility. The literary activity of Friar John Patrick was no less pronounced; so that, after recognising certain points of agreement between Dempster's narrative and the authentic history of the Scottish Observatines in their new homes, the embellishments of these biographical notices may be accepted with the customary reserve.

The citizens had scarcely quitted the friary on the after-

[1] *Aberd. Ob. Cal.*
[2] *Infra*, p. 325.
[3] *MS. Accounts, Collector-General*, 1561.
[4] *Ibid. sub annis.*
[5] Charter, 30th December 1567; *in extenso*, P. J. Anderson, *Charters of Aberdeen*, pp. 68–71. Friar Geddy died in 1575, *MS. Death Register, Aberdeen.* G. R. H.
[6] *Hist. Eccl. Gent. Scot.*, I. 234; II. 539.

noon of 29th December, when they were called upon to resist an attack on the spire of their parish church by the men of Angus. A lull ensued until 4th January, when the total sack of the Carmelite and Dominican Priories whetted the appetite of the mob for the demolition of the Grey Friary. At this point, however, the citizens interposed,[1] and, as a safeguard against further attack, the treasurer was ordered to instal four honest persons in the friary, "to remane thairin and awyt diligently thairupon at the townis expensis."[2] When they directed the burgh treasurer to uplift the rents of the friars' croft for the "town's utilite and proffitt,"[3] the magistrates had, however, to defend their rights in the friary property against several competitors. The adjacent proprietors on the north and south, the direct heirs of David Colison and Gilbert Menzies, were now members of the Town Council, and not unnaturally claimed the return of the portions of their tenements which the friars had acquired by gift for religious purposes. This claim met with scant consideration at the Council meetings, and, as "dishonest persons," these two burgesses dissented from all the decisions of the town concerning the Grey Friary.[4] With similar confidence the Corporation replied to the Earl of Huntly's missive bill upon the ground and buildings, and refused to recognise the more formidable claim put forward by Master Duncan Forbes of Monymusk as of any weight in a competition with their own right derived directly from the Observatine Chapter. Immediately after the vacation of the friary, Forbes, for some unexplained reason, received a grant of it from the Queen Dowager, "with power to him to laboure, use, manure and occupy the landis and yardis (along with the keeping and observing of the said Gray Freir place) be himself, his servandis and utheris in his name at his plesour"; and this gift was ratified by Queen Mary in a Letter under the Signet, commanding the magistrates to put him in full possession of the whole friary property "and to keep and

[1] The payment in the Burgh Treasurer's Accounts (1594–95) for 950 slates for the repair of the Grey Friars Church illustrates the amount of damage sustained.

[2] *Aberdeen Council Register*, 23rd January 1559–60.

[3] *Ibid.* 18th October 1561.

[4] *Ibid.*

defend him thairintill, ay and quhill it plesit hir Grace to tak ordour thairanent."[1] The magistrates nonetheless refused to grant the infeftment, "without thai be compellit," and converted the friary into the burgh malt and meal market, where all grain entering the town was to be stored, measured and sold, subject to a tax of "ane hard heid of every laid of victual" in place of the former dues.[2] In the spring of 1562, their position was rendered less assailable by the order of the Privy Council directing the provosts of Aberdeen and other burghs to uphold and use the Friars' Places for "the common weill and service of the saidis townis";[3] and, on 30th December 1567, the Instrument of Resignation granted by the friars was reinforced by the customary charter under the Great Seal, conveying to them the friary site and buildings for the erection of a hospital for the poor.[4] Little diligence was displayed in the furtherance of this humane project, with the result that, on 18th August 1574, the magistrates were summoned before the Privy Council and instructed to provide that "the haill place, alsweill kirk as the rest, sumtyme pertaining to the Gray Freris—except samekle as is thocht requisite for the ludgeing of the pure—be roupit to the maist avale and sett in few heritabillie to sic as will gif maist yeirlie dewtie thairfore, and the same to be fully applyit to the use and sustentatioun of the pure."[5] In respect of their previous remissness in making provision for the paupers and destitute of the burgh they were fined 1000 merks,[6] and Forbes of Monymusk considered the opportunity favourable for pressing his claim, in support of which he produced the Letter of Gift from the Queen Dowager and the Confirmation of Queen Mary. This infeftment was of little value in 1574, and the Privy Council had no hesitation in deciding in favour of the magistrates, on the ground that their charter superseded Forbes' title by reason of its provisional nature—"that the same suld indure quhill forder

[1] *Reg. P. C.*, II. 391–92.
[2] *Aberdeen Council Register*, 11th October 1561.
[3] *Reg. P. C.*, I. 202. [4] Charter, *ut supra*. [5] *Reg. P. C.*, II. 391.
[6] *Aberdeen Council Reg.*, 2nd September 1574. The Regent Moray discharged this fine and accepted in its place the personal bond of the provost and bailies to employ the money in accordance with the Crown Charter, 1567.

order were tane."[1] At the same time, the Regent and Council intimated that their departure would be deferred until the friary had been exposed to auction and the proceeds devoted to the poor, adding that the burgh charter would be revoked unless a satisfactory bid were elicited.[2] The magistrates finally fulfilled their obligation on 8th October,[3] and two years later the lessor renounced his right in their favour.[4] The church was leased by auction at a rent of £10, 13s. 4d.;[5] and, under reservation of the "kirk and the lytill hacht howss[6] passynd furth of the queyir on the est syd wall of the said kirk callit the fowalhowss,[7] as it is presentlie mercheit betuix four stane vallis, and of the grait foryett cloiss and passage to the kirk be the grait dur and be the lytill dur," the land was thereupon feued to David Indeaulth, Andrew King and Andrew Jack, as the highest bidders at a feu-duty of £40, "to be deput and consignit to the support of the indigent and puir in thair hospitall."[8] In 1587, the charter granted to the magistrates twenty years previously was reconfirmed by James VI. on attaining his majority,[9] and on 29th July of the same year the indefinite rights of the Earl of Huntly were recognised in a Crown charter which conveyed to him, in return for a feu-duty of £40 payable to the hospital of Aberdeen and its inmates, the subjects feued by the magistrates in 1576.[10] This conveyance in the Earl's favour was as little respected by the town as that in favour of Forbes of Monymusk, and the vassals, Patrick and Gilbert Jack, sons of Andrew Jack, remained in possession until 1593, when the Earl Marischal executed the deed of foundation of the magnificent college with which his name is now identified.[11] As the friary build-

[1] *Reg. P. C.*, II. 391–92.
[2] *Ibid.*
[3] *Aberdeen Council Register.*
[4] *Ibid.* 12th October 1576.
[5] *Treasurer's Accounts*, Charge, 1591.
[6] Hayshed.
[7] *i.e.* the fowl or hen house (at this date).
[8] *Records of Marischal Coll. and Univ.*, I. 87. On 5th December, Patrick Jack, the successor of the last-mentioned feuar, received a Precept of Sasine from the magistrates infefting him in one-third of the Grey Friars' Place; *Charters of Aberdeen*, p. 391.
[9] *Charters of Aberdeen*, pp. 88–90.
[10] *Reg. Mag. Sig.* (Print), V. No. 1308.
[11] *Records of Marischal Coll.*, I. 39. The deed of foundation was dated

ings were considered most "opportune and convenient" for this purpose, the Council agreed to pay Andrew and Gilbert Jack 1800 merks in full of all their rights, and, on 24th September, after considerable dissension,[1] "by a publict deed gave away the convent itself to the richt honourable George Erle Marishall of Scotland."[2] The friary glebe became the garden of the Principal of the New College, and from his first rental we learn that it was worth fifty merks annually—"it shold pay more bot we dispense with John Crafurd because he is occupied in our farmis."[3]

ANALYSIS OF *ABERDEEN OBITUARY CALENDAR*[4]

I. Observatine Provincial Ministers[5]

Friar David Crannok (Carnok), Provincial Vicar of this Province and also Commissary of the Reverend Father, the cismontane[6] Vicar General, died in England. In early life he was a physician, especially of James II., King of Scots, and his Queen, Mary, by whom he was held in high repute, and thereafter he took the habit and became a doctor of souls, 1472.

Friar Andrew Cairns, Provincial Minister of the Province of Scotland, in truth a Father of high repute, for he was an erudite and enlightened scholar in the sacred writings; he took high rank as an expert in the canon law, and was a shining example in every phase of devotion. Four times he filled the office of Minister with dignity and honour, and peacefully fell asleep during his last term of office. He was buried before the high altar in our convent at Edinburgh, 1543.[7]

2nd April, presumably in accordance with an agreement with the magistrates; it received the approval of the General Assembly on 26th April, and the ratification of Parliament on 21st July following; *ibid.* p. 84.

[1] Several members of the Council wished the site and buildings to be held of the magistrates as Superiors.

[2] *Records of Marischal Coll.*, I. 87. [3] *Ibid.* pp. 92–93.

[4] Facsimile and text, *infra*, II. pp. 285–336.

[5] Having no ascertainable connection with the friary in Aberdeen.

[6] *i.e.* from the Scottish point of view.

[7] In the rôle of mediator between James V. and the Earl of Angus, *supra*, p. 76.

Friar Ludovic Williamson honourably filled the office of Provincial Minister on two occasions, and peacefully fell asleep while in office. He was buried in our convent at Edinburgh, 1555. [Observatine Chronicle, 1553.]

II. Wardens of Aberdeen Friary, 1469–1559[1]

Friar Gerard of Texel, "one of the fathers who first brought the sacred Observance to this kingdom. He continued to prosecute his labours in this Province for twelve years, and died in this convent, while its Vicar, 1473."

Friar George Lythtone, "Warden of this convent, a man of praiseworthy life, and a striking example in word and action. For the space of about eighteen years, he laudably directed the government of the friars in several of the convents of this Province with continuous and burdensome labours, from which at length he happily rested in the Lord in the convent at Edinburgh, 1499."

[Friar Childe, designed in Deed of Agreement with Gilbert Menzies dated 2nd April 1505.]

Friar Robert Bailze, "a man of profound humility, patience and overflowing charity, sometime Warden of this convent, and by reason of his gentle conversation singularly beloved by the friars over whom he ruled, 1510."

Friar James Pettigreu, "Provincial Minister of this Province, in truth a Father of great repute for he was a most enlightened scholar in the sacred writings and a shining example in every phase of devotion. Before he obtained the office of Minister, he thrice ruled the Province[2] worthily and honourably as its Provincial, 1518."

Friar James Winchester, "a venerable and zealous friar who filled the offices of Warden and Custos, and died in France while Warden of this convent of Aberdeen, 1553."

Friar John Lytstar, "who for long honourably presided over the brethren as Warden, and twice as Provincial. He was a devout man of dove-like simplicity, a distinguished

[1] Additional notices enclosed in brackets [ ].

[2] *i.e.* The Wardenry or Custody of Aberdeen, comprising Elgin and Brechin, distinct from the Observatine Province of Scotland.

reader in philosophy and theology, and a fervent preacher of the divine word." N.D.

[FRIAR JOHN ROGER, the last Warden, who resigned the friary into the hands of the magistrates of Aberdeen, 29th December 1559.]

III. FRIARS OF ABERDEEN

FRIAR JOHN LEYDES, "layman and carpenter, a faithful workman at his craft for this and other convents. He was a devout and zealous brother, 1459." (1479 ?)

FRIAR WALTER LEYDES, "carpenter, who faithfully constructed a belfry for this convent, and cells for the friars, and did much other good work, 1469."

FRIAR JOHN RICHARDSON, "who was one of the brethren who first brought the sacred Observance to this kingdom. He received the convent in Edinburgh, secondly that of St. Andrews, and to him was mainly due the founding of this, the third convent. He was buried in the Church of St. Nicholas near the high altar, 1469."

FRIAR ALEXANDER MERSER, "specially devout and exemplary, son and heir of the deceased Robert Merser, laird of Innerpeffry in Strathearn, 1469."

FRIAR WILLIAM MARSCHEL, "devout and exemplary, 1469."

FRIAR JOHN LOUTHON, "specially devout and exemplary, who did much writing for the community here and also at St. Andrews, 1473."

FRIAR DUNCAN ALEXANDER, "specially devout, humble and exemplary, 1483."

FRIAR PATRICK STALKER, "devout and exemplary, who laboured faithfully in this convent for 26 years, 1512."

FRIAR JOHN STRANG, "priest and glass-worker, a faithful workman in his craft, who did much of the work of his craft in many convents throughout the Province, and, in particular, in those of Perth, Ayr, Elgin and Aberdeen, 1517."

FRIAR ALEXANDER VAN, "preacher and confessor, who, in various convents, underwent much burdensome toil for the common good, 1523."

FRIAR ALEXANDER MARCHEL, "priest, a devout and zealous brother, of service to the community in many respects, 1526."

FRIAR ALEXANDER REDY, "priest and confessor, a devout and simple Father, who served God day and night to the end of his life, 1529."

FRIAR ALEXANDER BLAIR, "a devout father confessor, 1549."

FRIAR JAMES ELPHINSTONE, "preacher and confessor, 1553."

FRIAR WILLIAM FLEMING, "priest and preacher, who, after completing ten years in Edinburgh and St. Andrews under the yoke of our Observance, served God continually day and night in this convent for thirty-four years in divine praises and rigid observance of the holy communion." N.D.

FRIAR WILLIAM LESLE, "priest and chantor, faithful in divine service, young in years, of sedate manners, and comely in body." N.D.

FRIAR WILLIAM GILRUIF, "priest, who died in the flower of his youth, 1555."

FRIAR FRANCIS JAMISONE, "priest, preacher and confessor, a devout Father, exemplary and zealous. He died on St. Laurence Day, 1557, at a ripe old age."

FRIAR ALEXANDER GRAY, "priest and confessor, a man of great faith and zeal in all that pertained to religion. He died on 10th January 1559, in the city of Aberdeen, at the house of his brother, John Gray, and was buried in his habit in the Cathedral Church before the altar of Saint Catherine."

FRIAR JOHN QUHITFURD, "priest, preacher and confessor." N.D.

FRIAR JOHN THOMSON, "layman and carpenter by trade, who in all that concerned his craft and that of the masons was a more faithful workman than the seculars of these crafts. Nor, outwith the friary, did he accept any food or drink on any occasion for his labours, but within the community his food for the greater part was the leavings of the other friars, and in the common repast no one was more

abstemious than he. In every good work, he was specially vigilant, and slept but little." N.D.

FRIAR WALTER LECHE, "priest, preacher and confessor of the seculars." N.D.

To these may be added—

[FRIAR ALEXANDER DICK, who turned apostate in 1532.]

[FRIARS ANDERSON and TOWRIS.]

[FRIAR JOHN GEDDY, who died in Aberdeen in 1575.]

[FRIARS LAMB and HARVEY, who received pensions for the years 1561–1563.]

IV. DONORS AND BENEFACTORS OF THE ABERDEEN FRIARY

Elizabeth Barla or Barlow, Lady of Elphinstone and Forbes, gave a silver chalice worth £20 for the altar of St. Francis.

She was an English lady, maid of honour and favourite attendant of Princess Margaret, whom she accompanied to Scotland on the occasion of her marriage to James IV. She is mentioned in the Treasurer's Accounts during the years 1504 to 1507, one item being "for ane pair of bedis of gold to Maistres Barlee and ane cors with them," valued at £62. In or about the year 1507 she married Alexander Elphinstone, a "familiar servitor" of the king, and many royal favours were conferred upon them, including a gift of the Lands of Invernochty and others in Aberdeenshire on 8th August 1507. This grant was made "for good service and because the said Elizabeth has become *naturalised* in Scotland,"[1] and on 19th July 1508 they also received a Crown Charter of the lands of Kildrummy Castle, which formed her dowry.[2] Alexander Elphinstone was created Lord Elphinstone on 14th January 1510, and fell with his royal master at the battle of Flodden, 9th September 1513.[3] His widow subsequently became the third wife of John, sixth Lord Forbes,—a charter in their favour being dated 29th July 1515,[4]—and died in 1518.

Egidia Blair, Lady of Row, gave 120 merks towards the construction of the second church.

She was the eldest daughter of John Blair of Blair, and married James Kennedy of Row, said to be first laird of Baltersan, who was the second son of Gilbert, first Lord Kennedy, ancestor of the Earls of

[1] *Reg. Mag. Sig.* (Print), II. No. 3115.
[2] *Ibid.* No. 3875, 12th August 1513.
[3] *Scots Peerage*, III. 530.
[4] *Reg. Mag. Sig.* (Print), III. No. 33.

Cassilis.[1] In addition to her donation of 120 merks towards the construction of the new church of this friary, she bequeathed, by her Deed of Settlement, dated "at her dwelling house of Baltersyne" 31st August 1530, twenty merks to the chaplains and friars on the day of her burial, and forty pounds, two pairs of blankets, three bed-rugs and one bed-cover of needlework to the Grey Friars (the *Fratres Minimi*) of Ayr. She died in 1537, and was buried in the aisle of the Blessed Virgin in the Abbey of Crossraguel.[2]

Duncan Burnet, Rector of Methlick, a special friend of the Friars Minor, to whom he made an annual gift of ten merks, along with diverse other alms and a scarlet cloth for the high altar. He also gave 108 merks to St. Andrews, 109 merks to Perth, £100 to Aberdeen, and 10 merks to each of the other friaries towards the close of his life.

He was the younger son of Alexander Burnet of Leys and Janet Gardine, and secured a renewal of his father's leases of Pittenkerrie, etc., on 29th April 1529, at which date he was described as Vicar of Kirkintilloch.[3] On 8th July 1529, James V. presented him, prospectively, to the rectory of Methlick, a prebend of Aberdeen Cathedral, as soon as a vacancy should occur. He was a Canon of Aberdeen, and, while celebrating divine service in the Cathedral there, he was "assaulted and several times felled to the earth" by John Elphinstone, Rector of Innerochtie, who had to undergo his trial upon that charge in 1550.[4] The date of his death is entered in this Obituary and in that of Aberdeen Cathedral as 1552.

Margaret Chalmer, Lady of Finlater and Drum, gave a silver spoon and three sums of £20, £17 and £10 for the needs of the friars.

It is narrated in her Deed of Gift to the Church of St. Nicholas, Aberdeen, dated 18th January 1530–31, that the gift consisted of twenty pounds Scots in gold and silver money, of which 13s. 4d. was to be distributed annually by the collector, 6s. to be given to the poor, and the collector to take 8d. for his trouble.[5] The following entry of her death appears in the Register of Deaths for the parish of Aberdeen: "Medonis Chalmer, lady of Fynlater, departtit the saxt day of Aprill, the yeir of God, 1532 yeirs."[6]

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[1] *Scots Peerage*, III. 453–54.

[2] *Crossraguel Charters*, I. 92. *Transactions of the Ayrshire and Galloway Archæological Association*, 1882, p. 87.

[3] *Family of Burnett of Leys*, Spald. Club, p. 17.

[4] Pitcairn, *Criminal Trials*, I. 356.

[5] *Chart. of St. Nicholas*, p. 147.

[6] *MS. Reg.*, G. R. H.

William Chalmer, of Balnacrag, gave £20 for the needs of the convent and its building, and £8 for a chalice.

He died in 1516, and was buried with the friars. He was witness to a charter signed at Kintore on 9th August 1499.[1] The lands of Balnacrag were, about 1330, granted by Randolph, Earl of Moray, to Sir James de Garvieaugh (Garioch), from whose son they were acquired by Robert de Camera (Chalmers). This Robert Chalmers, ancestor of the donor above-named, became the founder of the house of Chalmers of Balnacrag, which flourished for more than four centuries.[2]

Duncan Chalmer, son of the above, gave £20 in addition to other frequent alms.

Robert Colane, a notable benefactor of the Order.

In 1458 a "Robert Culane," son and heir of Andrew Culane, was made a burgess of the Guild and Trade of the Burgh of Aberdeen, and on 20th September 1479, John de Cullane, son and apparent heir of Robert Cullane, was entered as a burgess.[3]

David Colison made a gift of land necessary for the extension of the cloister in 1481; his eldest son built a trance to the choir and gave liberal alms.

He married a daughter of Matthew Fichet, was made a burgess of Aberdeen,[4] and was elected member of Aberdeen Town Council during the years 1474 to 1477 inclusive. In the latter year he witnessed several charters, in which he is designed as burgess of Aberdeen.

William Crichton, Rector of Oyne, gave liberal alms, and bequeathed £40 out of which a large part of the north wall of the lower garden was built.

Gavin Dunbar, Bishop of Aberdeen, built the new church at a cost of 1400 merks, and left as a legacy to the friary a silver chalice, a scarlet chasuble and ten merks.

William, third Earl of Erroll, gave large annual doles in victual and meat, and provided for the building of a large part of the south wall of the friary.

He was second son of the first Earl of Erroll, and succeeded to the earldom on the decease of his elder brother, Nicholas, in 1470. His mother, Beatrix Douglas, Countess of Erroll, assisted the Friars Minor in

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[1] *Reg. Episc. Aberd.*, I. 344.
[2] *Stat. Acc. of Scot.*, XII. 29.
[3] *Aberdeen Council Reg.*, V. 803; and VI. 536.
[4] *Burgess Reg. of Aberdeen*, p. 12.

Dundee during the famine of 1481–82, and provided for the celebration of masses for the welfare of the souls of herself, her deceased husband, and her son, William, this donor. He was a Privy Councillor to James III., from whom he had a charter of the Kirkton of Erroll on 22nd March 1482–83, and died in 1506–7.

William Elphinstone, Rector of Clat, gave liberal yearly alms in money and kind, a chalice worth £22, ten merks for the construction of the wall of the old choir, and £100 towards the construction of the new church. As a legacy, he left £20 and four bolls of malt.

On 8th April 1505 he founded a mass in the Church of Saint Nicholas, Aberdeen, for the salvation of his own soul and the souls of his parents,[1] James Elphinstone and Isabella Bruce. His nephew was Alexander, first Lord Elphinstone, who married Elizabeth Barlow, above-mentioned. This donor was one of the Scottish ambassadors to England who received safe conduct on 7th July 1486. He resigned the tutorship of his grand-nephew, the second Lord Elphinstone, on 15th March 1518,[2] and in a charter of 3rd October 1512 by him to the Church of the new College of Aberdeen, in which he is designed as "Prebendary of Clatt and Canon of Aberdeen," he bequeathed four merks annually for performance of an obit.[3] He died in 1528.

John Flescher, Chancellor of Aberdeen, gave liberal yearly alms, and £20 Scots for the construction of the north house.

He was elected Chancellor of the diocese on 7th September 1493, and gave a silver chalice and paten to the Cathedral.[4] On 11th July 1516 he received a sasine of part of a tenement belonging to Christina Blinseill,[5] and after he had resigned the chancellorship gave 20s. for a mass to be said in the Church of St. Nicholas.[6] His death is recorded in this *Calendar* in 1520, but in the *Episcopal Register of Aberdeen*[7] the date is fixed as 9th February 1522.

John Forbes of Pitsligo, in life and in death a great friend to the friars.

Alexander Galloway, Rector of Kinkell and architect of the second church, obtained 50 merks for the friars every four years, and left them thirty merks at his death.

He was closely associated with Bishop Dunbar in most of his munificent structural undertakings, and enjoyed a high reputation in the

[1] *Chart. St. Nicholas*, p. 204; G. R. H., Chart. 679.
[2] *Scots Peerage*, III. 530–32.
[3] Original in University Archives.
[4] *Reg. Episc. Aberd.*, II. 211.
[5] *Aberdeen Charters*, p. 399.
[6] *Chart. St. Nich.*, p. 172.
[7] II. 211.

north of Scotland as an architect of ecclesiastical buildings. The second church of the Grey Friars in Aberdeen was erected by him in 1518 or shortly thereafter, at the request, and largely at the expense of his friend, Bishop Dunbar, and remained for nearly four centuries a fitting memorial to his architectural genius. At his own expense, he built an altar in this church in honour of St. John the Baptist.[1] From the Earl Marischal he received a charter of the Croft of Skene on 12th December 1539, for the purpose of building a manse;[2] and in his Deed of Gift of Cryne's lands in Futtie to the Chaplains of the Cathedral of Aberdeen, in 1543, he is described as "Parson of Kinkell, and bachelor of the canon law, *in decretis*."[3] He was Rector of Aberdeen University from 1516 to 1549,[4] and died in the year 1552. His parents were William Galloway and Marjorie Mortimer, for whom he caused masses to be said in the Cathedral Church.[5]

Adam Gordon, Rector of Kinkell, did much good for this convent and for that of Elgin; and after he lost his reason the friars of Aberdeen received ten merks annually out of his alms by direction of the Bishop, in consideration of his previous generosity towards them.

In the *Council Register of Aberdeen*, under date 22nd January 1484, there is mention of this donor having paid 30s. "for the hiring of a cart."[6] Adam Gordon, prebendarius de Kinkell, witnessed a charter at Aberdeen College on 16th March 1475.[7] He died in 1508—"Anniversarium pro anima magistri Adami Gordone olim rectoris a Kynkell, qui obiit secundo nonas Aprilis anno domini 1508."[8]

Thomas Halkerston, Provost of the Collegiate Church of Crichton, Midlothian, gave 34 merks.

His name appears as one of the Commissioners for the Archbishop of St. Andrews in an Instrument relating to the fixing of boundaries to the lands of Kynnescot, dated 16th October 1511. On 13th December of the following year his name is given as one of the Lords of Council in an Extract Act and Decree pronounced by them on that date; and on 29th April 1513 he consented to a Charter of Sale of the lands of Guikhill by Lord Bothwell to John Heislop.[9] There are letters of

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[1] *Aberd. Ob. Cal.*
[2] *Common Good of Aberdeen*, Munro, p. 29.
[3] *Coll. Aberdeen and Banff*, p. 573.
[4] *Records of Univ. and King's Col., Aberdeen.*
[5] *Reg. Episc. Aberd.*
[6] *Council Reg. Aberd.* (Spald.), p. 413.
[7] *Reg. Mag. Sig.* (Print), III. No. 837.
[8] *Reg. Episc. Aberd.*, II. 12.
[9] *MS. Cal. of Chart.*, G. R. H., 774, 793, 799.

date 24th and 25th February 1514, whereby the Papal Penitentiary, Leonard, Cardinal of St. Eufame, directed this Thomas Halkerston, as Provost of the Collegiate Church of Crichton, to give dispensation of marriage to Alexander, Lord Hume, Great Chamberlain of Scotland, and Agnes Stewart; and on 3rd June 1514, in the Castle of Crichton, he absolved the parties "so that they may remain married."[1] He died in 1516.

John Leis, Chaplain and member of the Third Order, was alive in 1482;[2] he gave 12 merks, and acted as host of the friars in Brechin.

Elizabeth Lewynton, sometime Lady of Ruthven, gave 40 merks, and liberal alms to other friaries.

James Lindsay, Archdean of Aberdeen, gave victuals and daily alms, seventy well-bound volumes and a large chest.

He died in 1495, and was buried in the friary at Edinburgh, the anniversary of his death being celebrated in the Cathedral Church of Aberdeen on 17th January.[3]

John Maitland, Subdeacon of Ross, contributed 100 merks for the building of the lower part of the convent. This *Calendar* records his death in 1518, but he was alive on 18th May 1521, when he witnessed certain Letters of Collation.[4]

Thomas Myrton, as executor of Bishop Elphinstone, purchased a plot of land for 70 merks.

The year 1515 recorded in this *Calendar* as the date of his death has reference only to the date of his purchase of the land for the friary, in accordance with the instructions of the Vicar of St. Andrews concerning the estate of the late Bishop Elphinstone given on 16th November 1514.[5] When the parish church of Auchindoir was annexed to the College of Aberdeen on 24th March 1513–14, Myrton, at that time Archdeacon of Aberdeen and Rector of the said church, was created a Prebendary of the College, to which he provided a chorister as well as a vicar to the church. For the sum of £200 he also purchased a heritable annuity of £10, and presented it to the Collegiate Church of Crail, of which he was provost, by the hands of Sir William Myrtoun, "his vicar, near kinsman and much

[1] Laing, *Charters*, No. 301.
[2] *Reg. Episc. Brechinensis*, App. 116.
[3] *Reg. Episc. Aberd.*, I. 269; and II. 2.
[4] Laing, *Charters*, No. 329.
[5] *Reg. Episc. Aberd.*, I. 387, 391; *Chart. St. Nich.*, pp. 69, 70.

trusted," whose charter to the church is dated 20th April 1526.[1] Letters of Obligation, dated 16th December 1536, describe this sum as an endowment to the church of Crail "for performance of masses for the health of soul and safety of person of Sir Thomas Myrtoun, Archdeacon of Aberdeen and Provost of Crail, for the souls of the late William Elphinstone, Bishop of Aberdeen, Mr. John Myrtoun, formerly Rector of Monymusk," and others.[2] The following anniversary notice appears in the *Episcopal Register of Aberdeen*: "Julius, anniversarium pro anima domini Thome Myrtoun, olim Archidiaconi Aberdonensis, qui obiit anno Domini 1540."[3]

John Murray gave £20 in addition to other small alms.

By charter dated 7th March 1526–27, John Murray, burgess of Aberdeen, with consent of his spouse, Janet Gray, gifted his tenement in Castle Street to the Church of St. Nicholas. This was a death-bed gift, and on 3rd June 1529 a further charter was granted to this church by Patrick Gordoune of Methlik, as executor and intromitter with the effects of this donor, narrating that the chaplains were doubtful of the validity of the charter on account of the circumstances surrounding its execution. The corroborative title was thereupon accepted from his executor, who had "conquest of the same for payment of a sum of money from John Alanson, the true and undoubted heir of the said defunct."[4]

William Ogilvy, Chancellor of Brechin and host of the friars, left many books to the Order at his death in 1480.

Lady Janet Paterson, relict of Sir Alexander Lauder, gave liberal alms, and 100 merks as a legacy.

She was a daughter of John Paterson, burgess of Edinburgh, and Mariota Wintoun, his spouse, and became the wife of John Carkettill, also a burgess of Edinburgh.[5] After his decease she married Sir Alexander Lauder of Blyth, who, with the exception of a few short intervals, was Provost of Edinburgh from 1500 until his death at the battle of Flodden on 9th September 1513.[6] There is a Confirmation of date 24th December 1506 to him and Jonete Patersone, his spouse, in the lands of Estpleuchlandis de Nortoun.[7] On 31st May 1509, the King, for good service, gave a charter "to his familiar servant, Alexander Lauder, Provost of Edinburgh, and Jonete Patersoun, his spouse," of the lands of Thirlestane and Tullosfeu, including the lands of Blyth in the county of Berwick.[8] She sub-

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[1] *Register of Collegiate Church of Crail.*
[2] Laing, *Charters*, No. 412.
[3] *Reg. Episc. Aberd.*, II. 15.
[4] G. R. H., Chart. 1003, 1040; *Chart. of St. Nicholas*, p. 136.
[5] *Reg. Mag. Sig.* (Print), III. No. 234.
[6] *Edin. Council Reg.*, I. 271–78.
[7] *Reg. Mag. Sig.* (Print), II. No. 3019.
[8] *Ibid.* 3348.

sequently acquired the lands of Over Libertoun from Alexander Dalmahoy by charter dated 2nd July 1517, and also the lands of Finglen in the regality of Dalkeith, by one from the Earl of Morton, to herself in liferent, and John Carkettill, her grandson and heir, in fee, dated 13th June 1532.[1] On 2nd September 1494, she gave her consent to her father's mortification to the altar of St. Sebastian in St. Giles "for his soul and that of Mariota Wintoun, his spouse"; and, in her own charter of 10th June 1523, she gifted an annual rent to a chaplainry founded by her second husband at the altar of Gabriel, the Archangel, in St. Giles, on 11th October 1510. The relative Crown Confirmation, 17th August 1513, provided that the Friars Minor of Edinburgh were to receive a portion of the alms gift. Lady Paterson also endowed the chaplainry of St. Sebastian, "for the weal of the souls of her deceased parents and husbands," by charter, dated 1st June 1523.[2] The date of her death is given as 1534.

Andrew Rainy of Davolz contributed victuals and pecuniary alms almost from the foundation of the friary until his death in 1519, when he left to the friars a legacy of 24 merks.

Alexander Richard or Richardson contributed upwards of £10 to the friary at Aberdeen, and £600 in all to the Scottish Franciscans during his lifetime.

Robert Schand, Rector of Alness, gave alms at different times, and purchased the north part of the lower garden.

In a Charter of Foundation by this donor, designed as Parson of the parish church of Alness and Canon of Ross, to the Church of St. Nicholas, dated 12th July 1542, he directed daily mass to be said at the altar of St. Ann for himself and the souls of Donald Schand and Margaret Forbes, his parents. On 20th February 1549, he gave a donation of a silver chalice to this altar, of which he was chaplain; and shortly before his death in 1549 he founded a mass at it by assigning to the Curate and Chaplains of the Church of St. Nicholas an annual rent of 26s. 8d. Scots, to be uplifted from subjects in the Gallowgate—"for which they shall celebrate mass on 7th March until the day of my death, and, after my decease, on such day as I shall have migrated from this world."[3] This Charter of Foundation was dated 12th January 1548–49, and he "migrated from this world" on 1st August thereafter.

Duncan Scherar, Rector of Clat, in the Garioch district of Aberdeenshire, gave upwards of £40 for the buildings and other needs of the friars, in addition to occasional alms and wine for the celebration of mass.

[1] *Reg. Mag. Sig.* (Print), III. No. 1355.
[2] *Ibid.* Nos. 234, 3878.
[3] *Chart, St. Nicholas*, II. 181, 217.

He was a son of William Scherar and Isabella Rutherfurde, and entered into an agreement with the Curate and Chaplains of the parish church of Aberdeen, on 15th November 1488, for the celebration of masses on their behalf. By a charter dated 1st March 1501–2, in which he is designed as Prebendary of Clat and Canon of Aberdeen, he endowed the altar of St. Andrew in the Cathedral Church, and made a donation to its altar of St. Duthac.[1] On 20th July 1456 he appeared personally before the Bailies and Council, declaring that he had been promised the gift of the first vacant "chapilnary," and applied for that of St. Nicholas, then vacant. Henry Hervy was, however, appointed, but "Mayster Duncan" was promised the first vacant chaplainry for his own acceptance, or to give to one of his friends;[2] and there is a charter to Andrew Ranison of certain lands burdened with a payment to the chaplains of St. Nicholas, dated 10th May 1496, by this donor, in which he is designed "of Betschaur."[3] He was appointed Vicar General of Bishop Elphinstone during the absence of the Bishop when on his last embassy to Rome in 1491–92, and was therefore designed in a charter, dated 10th May 1491, "Canon of Aberdeen and Vicar General of William, Bishop of Aberdeen, then in remote parts." He died on 4th October 1503. "Anniversarium Magistri Duncani Scherar, olim rectoris de Clat, qui obiit anno domini 1503."[4]

William Stewart, Bishop of Aberdeen (1532–45), contributed daily alms, £40 for the purchase of the site of the north part of the new church, and built a new infirmary for the sick and infirm friars.

He was a son of Sir Thomas Stewart of Minto and Isabel, daughter of Sir Walter Stewart of Arthurly, and was born at Glasgow about 1479. He was Prebendary and Dean of Glasgow in 1527, Rector of Lochmaben, Ayrshire, in 1528, Lord Treasurer and Provost of Lincluden in 1530. In 1532 he was elected Bishop of Aberdeen, and in the following year was sent as an ambassador to England.[5] He erected an infirmary for the sick friars of this convent, and it is also on record that he built "the librarie hous, and with a number of books furnisht the same, as also he built the jewell or charter hous and vestrie or chapter house for the University."[6] He died on 17th April 1545.[7]

Robert Valterstone, Provost of Bothans Church, gave £27.

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[1] *Chart. St. Nicholas*, pp. 61, 64.
[2] *Council Register Aberd.* (Old Spald. Club), p. 21.
[3] *Chart. St. Nich.*, p. 34. [4] *Reg. Episc. Aberd.*, II. 20.
[5] *Scot. Monas.*, Walcott, p. 109; Keith's *Bishops*, pp. 71, 72.
[6] *Records of Univ. and King's Coll. Aberd.*, p. 533.
[7] *Scot. Monas.*, p. 109.

He was Provost or Principal of the Collegiate Church of Bothans (Yester or Gifford) in East Lothian, which was founded in 1418 by Hugh Gifford, last Lord Yester of that surname,[1] and, as Provost in 1529, witnessed a charter, dated at Haddington on 10th June of that year.[2] On 20th June 1535 in this capacity he accepted sasine of certain acres in the burgh of Haddington from John Atkynssoun, burgess of Edinburgh, and immediately resigned the same in favour of Sir William Dobsoun, Vicar of the Church of Bothans, in name of his brethren and their successors.[3] He was one of the Commissaries delegated by the Papal See in terms of letters, dated at Rome 13th May 1535, to ratify a lease of the lands of Maysheill in the county of Berwick, between the Prior of the Convent of Pittenweem and William Cockburn.[4] He also witnessed a charter signed at Kelso on 19th February 1539–40.[5]

Elizabeth Vindegatis gave 3000 merks (£2000 Scots) for the purchase of chalices, ornaments, images, bells, etc., for the seven friaries erected prior to her death in 1493.

Richard Vaus, Laird of Many, Aberdeenshire, secured the permanent settlement of the friars in Aberdeen upon a plot of ground valued at £100 Scots in 1470.

The name of "Vaus" is a corruption of "De Vallibus," and, as owner of an estate in close proximity to the burgh, and a burgess of the town, he was a man of considerable importance among the citizens. On 15th June 1448 he was appointed with others to inquire into a charge against the parson of Dunottar for manslaughter.[6] He died on 17th January 1478–79, and on 1st February following, his son and heir, Gilbert Vaus, along with his brother John, was admitted to the burgess roll of Aberdeen.[7] The lands of Many, by charter dated 22nd January 1555–56, came into the possession of John Carnegie of Kinnaird, a scion of the Earls of Southesk, on his marriage to Margaret Vaus, daughter of John Vaus of Many, a descendant of this donor.[8]

ROYAL BOUNTIES TO THE GREY FRIARS OF ABERDEEN

Treasurer's Accounts

1497. Item, the 10th day of October, to the Gray Freris of Abirdene, 40s.

1501. Item, the 25th day of October, for half ane stane of wax to the Gray Freris of Abirdene, 9s.

1504. Item, on Sonday the 3rd day of November to the Gray Freris in Abirdene, be the Kingis command, 42s.

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[1] Keith's *Bishops*.
[2] *MS. Cal. of Chart.*, G. R. H., 1041.
[3] *MS. Swinton Charters*, G. R. H., 110.
[4] Laing's *Charters*, No. 402.
[5] *Ibid.* No. 441.
[6] *Council Records, Aberd.* (Spald.), p. 16.
[7] *Aberd. Burgess Reg.* (New Spald. Club).
[8] *Douglas Peerage*, I. 513.

1505. Item, the 27th day of October, to the Gray Freris in Abirdene, 42s.
1548. October, to the Gray Freris of Abirdene, £4.
1552, 5th July, be my Lord Governor's special command to the Gray Freris in Abirdene, £20.

ROYAL BOUNTIES TO THE SISTERS OF ST. MARTHA AT CAMPVERE IN THE NETHERLANDS

Notices of payment by the Custumar of Aberdeen of a barrel of salmon, sent to these Sisters by the Friars Minor of Aberdeen as the alms of James IV., who inaugurated the custom, appear in the Rolls audited 2nd August 1502, 8th July 1503, 26th June 1504, 18th July 1505, 17th July 1508, 10th July 1509, 29th August 1510, 8th August 1511, 13th August 1512, 26th July 1513, 3rd September 1515, 20th August 1518.

1521, 9th March. Gilbert Menzies and John Mar, Custumars of Aberdeen, take credit for a barrel of salmon due annually to the Sisters of St. Clare de Veris instead of £3 of money by command of the late king during his pleasure for the (four) years of this account, £12; and the Accountants are ordained by the Auditors of Exchequer to deliver this barrel of salmon in future yearly to the Sisters of St. Catherine dwelling near the Burgh Muir of Edinburgh.

SELECTED EXAMPLES FROM MS. NOTARIAL PROTOCOL BOOKS (G. R. H.) OF DOCUMENTS AND AGREEMENTS COMPLETED WITHIN THE FRIARY

1524. Agreement ratified in the *place* of the Friars Minor of Aberdeen, 5th October 1524. (Sir John Cristisone, No. 2.)
1527. Arbiters appointed to meet in the *place* of the Friars Minor of Aberdeen, 3rd February 1527. (*Ibid.*)
1551. Instrument of Resignation done in the *public street* of Aberdeen at the place of the Friars Minor, 19th April 1551. (Robert Lumisdane, No. 6.)
1552. Procuratory of Resignation made in the *chapter* of the Friars Minor of the town of Aberdeen, 20th February 1552. (*Ibid.*)
1552. Agreement made in the *cloister* of the Friars Minor of the town of Aberdeen, 24th June 1552. (*Ibid.*)
1553. Agreement made in the *church* of the Friars Minor of the town of Aberdeen, 7th October 1553. (*Ibid.*)

CHAPTER IX—(*continued*)

OBSERVATINE FRIARIES

Glasgow

During the latter half of the fifteenth century, the city of Glasgow evinced no promise of its future commercial greatness. Its importance rested entirely on its position as the ecclesiastical capital of the west of Scotland, in the same manner as St. Andrews dominated the east; and the circumstances surrounding the settlement of the Observatines in both cities were identical. "Since, in the kingdom of Scotland, there are two metropolitan churches, the one in St. Andrews and the other in Glasgow, the Archbishop (*sic*) of the latter, imbued with an earnest love for the Order of Observance, sent for some holy friars, converts of Cornelius, and in 1472 built a magnificent convent for them in his city. Twenty worthy priests generally resided in it, with the special duty of hearing the confessions of the students."[1] The Charter of Mortification[2] of this site confirms the active participation of Bishop Laing, and supplies the further information that Thomas Forsyth, Rector of Glasgow, contributed to his Superior's gift, because the southern portion of the site selected for the friary in the ecclesiastical quarter of Glasgow formed part of the parsonage lands.[3] The "magnificence" of the friary and the extent of its site is now entirely a matter of conjecture. It lay on the west side of the Grey Friars

[1] *Ob. Chron.* [2] *MS. Reg. Mag. Sig.*, IX. No. 2; *supra*, p. 62.

[3] In 1511, the north portion of the western boundary was the archiepiscopal lands of Ramishorne, and at the same date the southern portion was part of the parsonage lands, which also included the "Craegmak," the southern boundary of the friary. In 1575, the western boundary was vaguely described as "the lands of the Rector of Glasgow and Medoflat." *Diocesan Registers of Glasgow* (Grampian Club), 22nd March and 22nd February 1511; *Glasgow Protocols* (R. Renwick), IV. No. 1061, and VII. No. 2242.

Wynd,[1] which gave access to it from the High Street and divided it from the rear portions of the tenements fronting the latter street. The western wall of the friary garden abutted on the open lands of Ramishorne and the parsonage lands.[2] The common vennel leading to Deanside well and yard[3] and the garden of one Ranald constituted the northern boundary;[4] and, in 1530, the south or "baksyd of the Grayfreris, callit Craegmak," was a plot of land feued to William Smyth and his spouse at a feu-duty of 3s. 6d. per rood.[5]

As a special Bull of Erection was granted to Edinburgh on the procurement of the Bishop of St. Andrews, the sanction of the Curia for the erection of this friary may be held as expressed in the *Intelleximus te.* In 1511, the local clergy decided to increase the friary demesne, and on this occasion the apostolic license to accept the gifts of Archbishop Bethune and Rolland Blacader, Canon and Prebendary of Glasgow[6]—with clauses *de rato et grato*—was granted in a separate instrument. "This little piece of land" comprised two contiguous strips immediately beyond the west wall, the northmost portion, measuring 20 feet in width, being bounded by Ranald's garden, and its continuation southward over the Rector's lands 22 feet. The purpose of this addition is vaguely expressed as the "extension of the buildings and gardens of the said friars"; but the loss of the titles granted by these two donors is of greater moment, in that it has deprived us of one of the rare illustrations of the special form of destination inserted into conveyances by the churchmen in favour of the Observatines. In completion of the feudal ceremonies of investiture, Warden John Johnson asked instruments of Canon Blacader's

[1] *MS. Reg. Acts and Decreets*, XXVIII. f. 344, G. R. H. "... the gait passand fra Gray Freris place in the said cietie to the market croce thereof." Sasine dated 8th March 1557–58.

[2] *Diocesan Registers, ut supra.*

[3] *Protocols*, VII. No. 2242.

[4] *Diocesan Registers*, 22nd March 1511.

[5] *Protocols*, IV. No. 1061. At the Reformation, William Hegait was the feuar on the south, and the Craegmak extended down to the road leading eastwards from the High Street past the grammar school to the Ramishorne lands. *Ibid.* VII. No. 2242, and IV. No. 1745.

[6] *Diocesan Registers, ut supra.*

gift from the notary in the friary chapter house; while the Observatine Provincial Minister appeared in person to accept the symbols of ownership of the Archbishop's grant.

If this friary received a money or victual stipend from the Crown, no trace of it now survives in the Exchequer records, except three notices of barrels of West Sea herring given as royal alms.[1] The analogy with St. Andrews and Aberdeen is complete in this respect; and it seems impossible to explain why these important friaries in the three episcopal centres should have received practically nothing from the Crown, unless we consider their situation in relation to the "Bishop's Charity."[2] The donation of 40s. from the Earl of Arran in 1535 may have been an annual payment,[3] and there is no reason to suppose that this friary did not receive a share of the Governor's alms in money like the other Observatine houses during the minority of Queen Mary.[4] From the accounts of the Treasurer, we learn that they carried out their theory of poverty by selecting a "provisioner," to whom the gifts from the Privy Purse were given to be expended on their behalf.[5] The donation of six French crowns, on the occasion of the King's journey through Ayr and Glasgow on his return from Whithorn in April 1503, illustrates the connection which was maintained by the friary at Glasgow with its offshoot in Ayr; and that of £10—"to the Gray Freris of Glasgow, the time of the air of Dumbartan, be the Lordis componitouris consideratioun"—doubtless implies that some use had been made of the friary during the circuit. Legacies were not an abnormal source of revenue. Between the years 1547 and 1555, the Commissariot Record of Glasgow[6] discloses ten legacies from laymen, worth £24, 13s. 4d., varying in value from 6s. 8d. to 20 merks, and three

[1] *Exchequer Rolls*, 1529, 1538, 1560. [2] *Supra*, p. 297.

[3] *MS. Account of Thomas Wilson, Chamberlain to the Earl of Arran*; original at Hamilton Palace. Payments of £8, 6s. 8d. to the Black Friars of Glasgow are also entered in this Discharge.

[4] The *Exchequer Rolls* are incomplete.

[5] 5th February 1501. Summary, *infra*, p. 350.

[6] This is the only pre-Reformation fragment now extant. G. R. H., Edinburgh.

from churchmen, amounting to £26, 13s. 4d.[1] From other sources, we learn that Hugh, first Earl of Eglinton, by his will dated 23rd September 1545, bequeathed £10 to the friars to pray for the souls of himself and his wife during one year,[2] and Rolland Blacader, Subdean of Glasgow, directed his chaplain to pay six pennies for each of the twenty-two masses to be celebrated on his obit day—"ten with the Friars Minor and twelve with the Friars Preachers dwelling in the city of Glasgow."[3]

Otherwise the pre-Reformation history of the friary is restricted to notices of four legal instruments completed by the parties within its chapter house and church,[4] and of the presence of Warden Johnson, Friar Tenand, and Alexander Cottis and Thomas Bawfour, lay brothers, in the rôle of witnesses to the renunciation of his offices by the moribund Alexander Inglis, Treasurer of the Church of Glasgow.[5] Another Warden, John Paterson,[6] is also recorded as a witness to the deed of indenture of the "Prenteischip of Patrick Dunlop of the saydlar craft."[7] During the stormy scenes of Reformation, the religious houses in Glasgow enjoyed immunity from attack until the autumn of 1559, when the ever active Earl of Argyll, accompanied by the Duke of Chatelherault and his son, "profaned the sacred things hitherto unviolated."[8] The fate of the friary is uncertain. The Privy Council order of 15th February 1562[9] refers in a general manner to the undemolished friaries of the Mendicant Orders in Aberdeen, Elgin, Inverness and Glasgow; and the

[1] Summary, *infra*, pp. 350–51.

[2] Confirmation, 12th March 1545–46; *Hist. MSS. Com., Tenth Report*, I. 26, No. 72.

[3] *Protocols*, II. p. 111; Deed of Foundation of a Chaplainry at the Altar of St. John and St. Nicholas in the Cathedral Church. As this deed was granted by a churchman it indicates that there were at least ten ordained priests in the Grey Friary.

[4] *MS. Protocol Books*, Gavin Ross of Ayr, I. 21st November 1516, G. R. H.; *Glasgow Protocols* (Print), 6th March 1556, V. Nos. 1334–36.

[5] *Diocesan Registers*, 9th April, 1513.

[6] Provincial Minister in 1540 and 1549.

[7] *Glasgow Protocols*, IV. 1101, 24th October 1531.

[8] Leslie, II. 428, Ed. Scott. Text Soc. The Earl of Arran reached Scotland from France about 10th September, *Cal. Scot. Pap.*, I. 538.

[9] *Reg. P. C.*, I. 202.

subsequent Protocol of 23rd December 1575, which records the conveyance "of the place formerly of the Friars Minor of Glasgow with yards and surrounding wall"[1] throws no light on its then condition. The magistrates ought to have assumed possession of the site both under the above order and the charter of the ecclesiastical properties within their jurisdiction granted by Queen Mary on 16th March 1566–7;[2] while the Crown Precept of the Thirds and Superplus[3] of the endowments formed a necessary link in the title antecedent to the transference of these lands to the University on 8th January 1572–3.[4] The Black Friary was dealt with in this manner. Its yard was let at an agricultural rent of £5 in 1561 and 1562.[5] By 1563, an annual revenue of £32, 4s. 5d. had been assigned to the "Regents of the University" as the official value of the annuals formerly payable to the Black Friary from "my Lord Dukis landis of the nether toune of Hammiltoune and annual lyand in Avendale, togidder with the annuellis of the toune of Glasgow."[6] The "Regents of the Pedagoge" also received an assignation of nineteen bolls of malt formerly uplifted by the Dominicans from the lands of Ballagane in Lennox; but, after the date of the Crown Charter, this assignment was revoked, and the malt, along with ten bolls of meal that had escaped notice until 1566, was transferred to "the sustentatioun of thair minister."[7] The pre-Reformation characteristics of the Grey Friary were, however, accurately reflected in its history during these years. It had possessed neither ground annuals, victual stipend payable out of

[1] *MS. Prot. Books*, Henry Gibson, II. f. 241; *infra*, II. p. 248. The church of the Black Friary remained intact until its destruction by lightning in 1670.

[2] Precept, *MS. Reg. Privy Seal*, XXXVI. f. 73; Charter, *Munimenta Universitatis Glasg.*, I. 71.

[3] 5th June 1568; *Liber Collegii*, pp. lxxxii–lxxxiv. [4] *Ibid.*

[5] *MS. Accounts, Collector-General*, 1562.

[6] *Ibid.* 1561 and 1562. *Sub-Collector's Accounts*, 1563 and 1566, Sect. XIII. Dr. Joseph Robertson (*Liber Collegii*, Maitland Club) discloses the titles of burghal and landward annual rents to the value of £38, 12s. 4d. constituted in favour of the Black Friars; but the restricted definition of those secured by the Collector of Thirds makes it clear that a considerable number of landward annuals escaped notice in 1561. The ultimate destination of the annual allowance of £23, 13s. 4d. to these friars from the fermes of Dumbarton and Cadiow is now unknown.

[7] *Ibid. anno* 1568.

private lands, nor land outwith the town. Consequently, unheeded by the Collectors or the Regents, and probably with the connivance of the magistrates, it passed into the private ownership of Sir John Stewart of Minto, then Provost of Glasgow and Collector of Thirds. His title was attacked by the University in 1575, when a decree of ejectment was obtained against the tenants and occupiers of the lands comprised in its grant; and Signet Letters were issued on 12th December forbidding further alienations of these lands by the churchmen.[1] Nevertheless, eleven days later, through his procurator, John Herbertson, he asserted his right of ownership as an individual, by resigning the friary[2] to one Joanna Conyghame; and, with her subsequent resignation of the subjects to her eldest son, the friary passed permanently out of the patrimony of the University.[3] Sir John was, therefore, one of the "greedie askeris," already referred to. The friars themselves had long since quitted the scenes of their former labours. None remained in Scotland to receive the Mendicant pension out of the Thirds of Benefices, and the closing scenes of their mission of self-denial in Glasgow offer an apt illustration of personal poverty as practised among them. The preparations of James Baxter, ere he went into exile, are the counterpart of the expropriation of George Hugo, the Conventual friar of Haddington. In early life, by the consent of "Johne Smyth's bayrnis," James Baxter became the Archbishop's rentaller of the 43s. 10d. land of Haghill, in which his predecessor had been rentalled on 5th August 1513.[4] When he took the Observatine habit, Friar Baxter necessarily

[1] *Munimenta*, I. 96.

[2] Barony land.

[3] *MS. Prot. Books*, Henry Gibson, II. f. 241; *infra*, II. p. 248. There is no evidence that Sir John Stewart's title was burdened by any right of superiority (*Vide* Disposition of the Friary in Haddington, *infra*, II. p. 56). The changes effected in civic and ecclesiastical government within the Barony in November 1573, the Privy Council's exoneration of Sir John's intromissions with the Thirds, and the fact that the Crown Charters were subject to innumerable and unexpressed reservations, prove that the Grey Friary in Glasgow was a direct gift by the Crown to this "greedie asker." His brother, Adam Stewart, also obtained a gift of the lands of the Grey Friary at Lanark; *supra*, pp. 152, 155, 245.

[4] *Rental Book of the Barony of Glasgow*, I. 48, 84. The subsequent transmission of this right, recorded in the Protocol of 19th June 1560, specifically states that "the said James was rentalled by the Archbishop of Glasgow, superior thereof": *MS. Prot. Books*, Henry Gibson, I. f. 36; *infra*, II. p. 247.

abandoned his beneficial ownership of the land in accordance with the statutes of the Order[1]; and thus we find it in the possession of George and Robert Gray, as tenants, while he was an inmate of the friary. *Ex facie* of the register, James Baxter, however, remained rentaller;[2] and coincident with the expulsion of the friars, the death of his brother Robert invested him with an heirship of considerable value. If the friar had intended to remain in Scotland, a suitable provision, therefore, awaited him on his return to civil life; but his intention was to observe his vow of poverty and to remain faithful to his Church. Accordingly, he appeared in the Barony Court of Glasgow on 19th June 1560, to comply with the exigencies of the civil law in the execution of two instruments.[3] Under the one, he renounced his brother's heirship in favour of his kinsman Robert Herbertson,[4] and in the other he granted a gratuitous assignation of the lands of Haghill also to Herbertson, the writ making reference to the personal or incompleted right of his brother Robert to the lands.[5] It is therefore clear that James Baxter accompanied his fellow friars into exile, and, together with our knowledge derived from extraneous sources, the resignation of his share in this world's goods illustrates a scene that must have been enacted in many another town by Mendicant Friars who subordinated the instincts of nationality to the dictates of conscience.

[1] *M. F.*, II. 85. They demanded a complete severance from temporal interests, actual or contingent. In 1565, the Church recognised common ownership of property by all the Mendicant Orders, except the Observatine and Capuchin Franciscans.

[2] There is nothing to indicate who received the rents from the tenants and paid the Archbishop's duties; but the strict provisions of the Observatine Rule against the possession of land in this manner, the practice indicated by the case of George Hugo, and the personal right in the lands acquired by Friar Baxter's brother, make it reasonable to suppose that Robert Baxter, or some member of his family, drew the rents.

[3] *Glasgow Protocols*, V. 1370–71.

[4] The *Accounts of the Collector-General* further prove that James Baxter did not receive the pension of £16 granted to recanting friars.

[5] In an article on the Grey Friars of Glasgow (*Scot. Hist. Review*, III. 179) Mr. John Edwards assumes that the lands of Haghill were the site of the friary, and suggests that Friar Baxter remained in Glasgow in enjoyment of a liferent share in the friary property. His renunciation of the heirship and the *Accounts* disprove the latter suggestion; and, if there were any doubt concerning these lands, it is set at rest by the fact that the site of the friary was not rentalled land, and that the conveyance was granted by Baxter, as an individual, and not by the Warden and Chapter as was done in every other case.

ROYAL BOUNTIES TO THE GREY FRIARS OF GLASGOW

I. Exchequer Rolls

1529, 19th August. Paid by James Colville of Ochiltree, Comptroller, to the Friars Minor of Observance of Glasgow, two barrels of herrings from the Western Sea.

1538, 18th September. Paid by James Colville as the King's alms for the term of this account, to the Friars Minor of Observance of Glasgow, one barrel of herring.

1560, 20th March. Paid by the Comptroller to the Friars Minor of Observance of Stirling and Glasgow, as the alms of the King and Queen, two barrels of herring of the Western Sea.

II. Treasurer's Accounts

1500, 5th February. Giffin be the Kingis command to the Gray Freris of Glasgo, deliverit to thair provisour, 28s.

1503, 18th May. Payit to the Comptrollar that he laid doun be the Kingis command to the Freris of Air and Glasgo when the King com fra Quhithirn in Aprile bipast, 6 Franch crounis—Summa, £4, 4s.

1504, 11th June. To the Gray Freris of Glasgow, 40s.

1505, 25th April. To the Freris of Glasgow, 14s.

1505, 7th June. Payit to Lord Avendale, he gaif to the Freris of Glasgo, 14s.

1505. Item, the 11th day of Junij to the Gray Freris of Glasgo, 40s.

1531, 30th September. To the Gray Freris of Glasgow, the time of the air of Dumbartan, be the Lordis componitouris consideratioun, £10.

LEGACIES TO THE GREY FRIARS OF GLASGOW, 1547–55, appearing in the *MS. Reg. Conf. Test. of the Diocese of Glasgow* at ff. 18b, 3b, 21^{5}a, 24a, 34a, 34b, 37a, 51b, 48a, 59a, 80a, 89b, 85b. G. R. H.

1547, 24th March. Testament of Peter Adam, to the Friars Minor of Glasgow, 20s.

1547, 4th November. William Cunningham of Glengarnok to the Friars Minor of Ayr and Glasgow, 20 merks.

1548, 30th May. Testament of Gavin Dunbar, Archbishop of Glasgow. "Item, to the Friars Minor of Glasgow, £10."

1548, 19th June. Cuthbert Adam. "Item, lego fratribus minoribus Glasguen. pro trigentalio aureo celebrando pro anima mea, 30s."

1549, 27th April. Testament of . . . to the Friars Minor, 20s.

1549, 26th June. Janet Maxwell, wife of John Knox, citizen of Glasgow, to the Friars Minor, 10s.

1549, 10th December. Janet Mulzeane, to the Friars Minor of Glasgow, 40s.

1550, 13th February. Richard Hucheson, to the Friars Minor of Glasgow, 20s.

1550, 18th October. Mr. James Houston, Subdean and Vicar General of Glasgow, to the Friars Minor of the city of Glasgow, £10.

1551, 15th August. John Lindsay of Covington, to the Friars Minor in Glasgow, 40s.

1551, 10th October. Janet Bailie, Lady of Cruddildyks, to the Friars Minor of Glasgow, two bolls of meal.

1552, 6th February. Cuthbert Simson, Vicar of Dalliell, to the Friars Minor of Glasgow, 10 merks.

1553, 16th April, John Haisty, to the Friars Minor of Glasgow, 6s. 8d.[1]

ADDITIONAL

1545, 23rd September. Earl of Eglinton to the Friars Minor for one year, £10.

[1] During the same period the Black Friars received eight legacies, amounting to £26, 13s. 4d., of which £20 was contributed by churchmen. In five instances the testator left legacies to both friaries.

The Cordelière and the Ermine of Brittany.
Château de Blois.

CHAPTER IX—(*continued*)

OBSERVATINE FRIARIES

Ayr

The friary at Ayr appears, in the chronicle of Father Hay, as an offshoot from Glasgow, and was wholly due to the religious zeal of the burghers, stimulated by the "fragrant" report of the friars settled in the episcopal city two years previously under the auspices of Bishop Laing. "A great throng of merchants," we are further told, "resorted to it to confess to the fathers, and in the friary church the Blessed Virgin, the mother of God, was worshipped with the highest veneration by the crowd of Christians; and through her prayers and merits many miracles were wrought there."[1] The foundation received papal sanction under the Bull obtained by the Bishop of Dunkeld in 1481–82,[2] and its site was that now occupied by the Old Parish Church on the south bank of the river Ayr, in full view of the "auld brig," over which the friars passed full many a time on their missions of mercy.[3] Nothing whatever is known of the buildings, beyond the fact that at least a portion of the beautiful stained glass of the church windows was the work of the artistic Friar Strang of Aberdeen;[4] while the names of Wardens Arthur Park and Rae, and Friar John M'Haig,[5] who was summoned to Stirling as a witness in 1502, alone appear in the local and central records. Their intimate relations with the commercial life of the community may be appreciated, to a certain extent, from the notices occurring in the *Protocol Books* of Gavin Ross of Ayr.[6] In

[1] *Ob. Chron.* [2] *Infra*, II. p. 250.

[3] The lane, now leading from the High Street to the church, was, as in several other towns, then known as the Friars Vennel.

[4] *Aberd. Ob. Cal.* [5] *MS. Acta Dom. Concil.*, XIII. f. 94.

[6] *MS.*, G. R. H., Vols. I. and II.

an action for divorce instituted before the Commissary of Lesmahagow, one John Symontoun asked for a decree in his favour on account of the non-appearance of his wife in the suit. The judge, however, delayed sentence to allow the husband an opportunity to consult the Grey Friars (of Ayr or Glasgow), and to find security for the return of the lady's dowry.[1] In 1529, conform to a decree of court, Margaret Crawford, widow of William Hebburn of Lowis, and Janet Crawford, widow of William Cathcart of Drumsmuddan, delivered to Friar Arthur Park in sure custody, "a sum of twenty merks in a closed purse" for the use of David and Margaret Cathcart, children of the said William Cathcart.[2] From the records of two other lawsuits of this period, we learn that the friars of Ayr also enjoyed the favour of the ancestors of the Earls of Cathcart, and that they were the trusted custodiers of part of the title deeds of the hundred merk land of Carlton. In the first action, affecting the rights of Margaret and Sibilla Cathcart, heirs portioners of Allan Cathcart of Carlton, to certain Letters of Reversion, the parties had agreed to place the Letters in the hands of the friars for safe custody.[3] The heirs of Sibilla then demanded delivery of the documents from the Warden, during the competition with the assignee of their deceased father; and they obtained a warrant from the local court ordering the Warden to produce the Instrument in their mother's favour. However, on the appeal of the assignee to the Lords of Council, the impartial attitude of the Warden, as custodier, was vindicated by an interlocutor of June 1530, directing him to retain the Letters pending the decision of the question at issue.[4] As an interesting illustration of contemporary judicial procedure, it may be noted that this interlocutor was communicated to the friars by the Macer of the Court, who received 20s. for his travelling expenses.[5] These two sisters had been infefted in the barony as heirs portioners of their father under two Instruments of Sasine on 2nd May 1510; and twenty-two

[1] *MS.*, G. R. H., Vol. I. 12th November 1516. [2] *Ibid.* II. 26th June 1529.
[3] *Ibid.* I. 12th November 1516. [4] *MS. Cathcart Papers*, Family Charter Chest.
[5] *Treasurer's Accounts*, 15th June 1530.

years later the Crown endeavoured to seize the lands under an apprising on the ground of non-entry. To John Campbell, natural son of John Campbell of Little Cesnock, James IV., or the Regency, had meanwhile granted the "ward of all landis and annuellis baith properteis and tenandries which pertained to the deceased Sibill Cathcart, lady of the half of the barony of Carltoun, and to the deceased John Cathcart, her spouse, with the marriage of Marion and Janet Cathcart, their daughters, and of Margaret and Janet Kennedy, also daughters to the said Sibill." The Crown departed from its claim against Margaret and her husband on the production of her Sasine of 1510; but, in view of their competition with John Campbell on the question of their ward and marriage, the procurator of Sibilla's four minor children could only plead that "the said Sibilla Cathcart was sufficiently sesit in the saidis landis of Carltoun and that hir instrument of sesing wes in keping of the Wardane of the Gray Freris of Air, *quha wald nocht deliver the samin without command of the saidis Lordis.*" The Lords thereupon granted warrant for its production, and a week later, on 21st June 1532, the instrument, "massit in papir and closit under the cheptour sele," was lodged in the process, sent "autentikly fra the saidis freris of Air under the signe and subscription manuale of Schir Jhon McQuharr, notar public." Nonetheless Sir Adam Otterburn, the King's Advocate, alleged that the document "was fals and fenzeit in the self, and offerit him to impreif the samin civilly and lauchfully." The Warden was accordingly summoned to appear at the next diet, "to give informatioune to the Lordis in sic thing as sal be opinnit and schawin to him at his cuming"; and, in view of the final decree absolving Sibilla's heirs from the claim of the Advocate, we may assume that Friar Rae convinced the Lords that there was no truth in the allegation of forgery. But the recognition of John Campbell's claim to the ward and marriage of the minor heirs, which was inserted in this decree, testifies to his practical sagacity in requiring judicial sanction to his surrender of the writ.[1]

[1] *MS. Acta Dom. Concilii et Sessionis*, I. ff. 21, 22, 36, 51, 52; II. ff. 17, 28; *infra*, II. p. 251.

Two entries in the *Exchequer Rolls* appear to indicate that the friars received an annual royal bounty of four bolls of barley,[1] which may have been supplemented by a similar quantity of wheat as was the case in the other friaries. The notices of gifts from the royal purse, ranging from 14s. to 40s. to the Grey Friars of Ayr, indicate the personal interest of James IV. in their welfare; and on another occasion he waived his rights to the succession of Sir Robert Bell of Mauchline, who had bequeathed six bolls of bear to the friars, because, in the words of the prosaic Treasurer, "Sir Robert deit bastard and the King gat his eschet." For church furnishings he also contributed a chasuble of red camlet—"with cors of slicht gold"—worth £4, 10s., six and a half ells of Bertane (Breton) cloth for an alb to the same, and a silver chalice weighing eighteen ounces, the metal being paid for at the rate of 11s. per ounce and the silversmith remunerated for his workmanship at 2s. per ounce. The cost of regilting another chalice was also paid out of the royal purse,[2] and a gift of £10 by James V. is recorded under the year 1530. On the eve of the Reformation, the Queen Dowager gave another of £12;[3] and from an endorsement—"Item to the Grey Freris of Ayr 40s. for ther mydsomer term"—on a letter of instructions by Henry, Bishop of Galloway, to the Factors of the Abbot of Crossraguel,[4] we may surmise that this stipend represented the "Bishop's Charity," so often referred to by Sir David Lindsay, John Knox and the Earl of Glencairn, as being paid to the friars in return for their services in the diocese. The municipal charities were represented by an annual grant of wine, varying in value from 45s. to £5, an occasional boll of salt worth 29s. and, in 1547, by a gift of 53s. 4d. paid "to the Gray Freris at the tounis command."[5]

[1] *Exch. Rolls*, 5th August 1542 and 5th August 1543. In 1551 the Burgh Treasurer was allowed 11s. "to tak afield the freiris discharge to the chakker." *MS. Accounts*, *infra*, p. 360.

[2] *Treasurer's Accounts*, summary, *infra*, p. 359.

[3] *Ibid. MS.*

[4] 5th July 1536. *Arch. and Hist. Collect. of Ayr and Wigton*, Culzean Muniments, No. 338.

[5] *MS.* "*Buik of the Commoun Comptis of the Commoun Gude of the Burgh of Air*, beginnand in the yeir of our Lord 1535." Summary, *infra*, p. 360.

Testamentary bequests were but a slender source of revenue for this friary, and the eight small legacies, recorded in the Register of Testaments between 1547 and 1555,[1] are wholly at variance with the assertions of Sir Thomas Craig that the friars acquired great wealth by testamentary robbery. In this case, putting aside the legacy of £10 from Gavin Dunbar, Archbishop of Glasgow, and a gift of ten merks from Duncan Burnet, Rector of Methlick,[2] the remaining seven granted by laymen amounted in all to 21s. 8d., three merks, a boll of meal, and the transfer of a debt of 40s. due to the testator.[3] Hugh, first Earl of Eglinton, directed that they should be paid £10 annually for three years in return for prayers and masses for himself and his wife;[4] and Egidia Blair, wife of James Kennedy of Row, left a legacy of £40, two pairs of blankets, three bed rugs, and one bed-cover of needlework.[5]

Of the riot of 1543 and the imprisonment of the outspoken Grey Friar in the Tolbooth, mention has already been made.[6] In the stormy days of the Reformation the friary was sacked, and the friars quitted the burgh in a body, not one of them appearing as a pensioner under the new régime.[7] After the abolition of mass, the burghers gave free rein to their predatory instincts, and ere long the ruined buildings of the deserted friary had totally disappeared, the stones being filched by the citizens for their own purposes. The authorities at Edinburgh put an end to this scandal in 1567,

[1] There is a blank in this record between the years 1555 and 1560.

[2] *Aberd. Ob. Cal.*, 9th March 1552.

[3] Summary, *infra*, p. 358.

[4] Confirmation, 12th March 1545-46, *Hist. MSS. Com.*, *Tenth Report*, I. 26, No. 72.

[5] *Charters of Crossraguel*, I. 94–5. This gift appears in the will as directed to the *Fratres Minimi* of Ayr; but, while it is possible that this Order may have possessed a friary in Ayr, no trace of it can now be discovered from Scottish sources. Cf. *Fratres Egregii* in Lanark, whose presence there is alone vouched for by the Testament of Vicar Andrew Allan.

[6] *Supra*, p. 80.

[7] *MS. Accounts, Collector-General*, and *Book of Chaplainries*. As late as 1577, two Black Friars were in receipt of their pensions, and in 1584 David Allason alone remained (*ibid.*); the Town Rentals also prove that the magistrates received no annual rents from the Grey Friary.

when William Campbell, younger of Skeldoun, received a nineteen years' Crown Lease of the acre comprising the friary yards, fortified by a retrospective clause authorising him to recover possession of "the stainis of the place, kirk and houses of the said Gray Freris quhairever the samin may be apprehendit."[1] Two months later, for the making of an honest provision for the ministers of the word of God and for the support of a hospital or poorhouse, the magistrates received the now customary Crown charter, infefting them under a conjunct Sasine in the whole of the properties formerly in the possession of the religious houses within the burgh, and annulling all previous and collusive alienations,[2] many of which were, however, sanctioned by the Act of 1563 with its retrospective clauses. The *Rental of Chaplainries* shows that the Dominicans had prudently leased their property for nineteen years to one Charles Crawford, and that his brother William was in possession of the lease in 1567;[3] but the Grey Friary had not been provided with a provisional disponee, and the town's *Rentals* record the Council's feu grants of the remaining portions of the yards at an annual duty of 53s. 4d.—presumably in respect of two acres—of two roods to Edward Wallace for 13s. 4d., and one rood to Alexander Power for 6s. 8d.[4] The total extent of the friary lands was therefore 3 acres 3 roods, producing annually at that period £4, 13s. 4d.; and nearly a hundred years after the departure of the friars, the site of their home reverted to religious purposes. During the Cromwellian period it was decided to erect a fortification at Ayr, and for that purpose the parish church of St. John the Baptist with its graveyard and surrounding ground, extending in all to eleven acres, was taken possession of by the military authorities in 1652. Towards the cost of erection of a new church, Cromwell contributed 1000 merks; and, at a meeting of the Town Council in July of that year, it was

[1] Tack, *MS. Reg. Privy Seal*, XXXVI. f. 16. Rent, 20s.; *infra*, II. p. 254.

[2] Precept under the Signet dated 14th April 1567, *MS. Reg. Privy Seal*, XXXVI. f. 74, and Crown charter, *eod. die*, *MS. Reg. Mag. Sig.*, XXXII. f. 322.

[3] Cf. *Charters of Ayr*, pp. 109–10. In the Crown Confirmation of this lease two of the surviving friars were joined with the lessees in respect of their pension.

[4] *MS. Rentals*, Burgh Charter Room.

agreed that the site of the old Grey Friary "be bocht, and that the toun be stented for als muche as to outred the samyn what is deficient of the money to be had fra the English." Four years later the churchyard was levelled, and "saittis and pewis" were distributed in the building since known as the Old Parish Church of Ayr.

LEGACIES BEQUEATHED TO THE GREY FRIARS OF AYR

1504, Sir Robert Bell of Mauchline to the Friars Minor, 6 bolls of bear (*Treasurer's Accounts*).

Among the legacies in a Deed of Settlement[1] executed 31st August 1530 by Egidia Gillian Blair, Lady of Row, daughter of John Blair of that Ilk, and wife of James Kennedy of Baltersan, laird of Row, and son of Gilbert, first Lord Kennedy, are:—

"Item, to the Minimi Friars[2] of Ayr, forty pounds.

"Item, on the day of my burial, to the Minimi Friars of Ayr, two pairs of blankets, three bed rugs and one bed-cover of needlework."

In Testament[3] of Hugh, first Earl of Eglinton, dated 23rd September 1545, and confirmed by the Archbishop of Glasgow, 12th March 1545–46—

To the Friars Minor of Ayr for the space of three years, £10 Scots for prayers for the weal of the souls of himself and his wife.

In *MS. Register of Confirmed Testaments*, Commissariot of Glasgow, G. R. H., the following legacies appear:—

1547, 17th November. Testament, dated 20th August 1546, of Jessie Boyll, wife of John Muir, half a merk.

1547–48, 14th January. Testament of Archibald Weyr, who died 7th October 1547, 6s. 8d.

1547–48, 13th January. In his Testament, Gilbert Kennedy of Balmaclanochan, who was killed at the battle of Fauside on 12th January 1547–48, left a debt of 40s. due to him.

1548, 30th May. Testament of Gavin Dunbar, Archbishop of Glasgow, £10.

1549 . . . Testament of Patrick Dunlop, a boll of meal in return for a tregintal of masses.

1550, 5th August. Testament of Andrew Wilson, 15s.

1550, 13th March. Testament of Margaret Fullerton, wife of John White, half a merk.

1552, 25th April. Testament of Alexander Boyd, two merks.

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[1] *Charters of Crossraguel; Arch. and Hist. Coll. of Ayr and Wigton*, I. 94, 95.

[2] *Vide* note 5, p. 356.

[3] *Hist. MSS Com. Tenth Report*, I. p. 26, No. 72; Fraser's *Earls of Eglinton*.

ROYAL BOUNTIES TO THE GREY FRIARS OF AYR

I. Exchequer Rolls

1542, 5th August. Paid by John Hamilton of Camskeith, Receiver of Kilmarnock, to the Friars of Observance of Ayr as the alms of the King, two bolls barley.

1543, 10th August. Paid by John Hamilton of Camskeith, Receiver of Kilmarnock, to the Friars of Observance of Ayr as the alms of the King four bolls barley.

II. Treasurer's Accounts

1497. Item, the sevint day of March, in Air giffin to Schir Andro to gif the Gray Freris, be the Kingis command, 15s.

1501. Item, the 26th day of August, to the Gray Freris of Air be the Kingis command, 40s.

1503. Item, the 18th day of Aprile, payit to Schir Andro Makbrek that he laid doun to the Gray Freris of Air, the 9th day of April bipast, 20s.

1503. Item, the 17th day of Maij, be the Kingis command to the Gray Freris of Air, 18s.

1504. Item, the 14th day of Aprile, be the Kingis command, giffin to the Gray Freris of Air for 6 bollis of bere, left in legasy be Schir Robert Bell in Mauchlin, to the said Freris, quhilk Schir Robert deit bastard and the King gat his eschet, £3, 12s.

1504. Item, the secund day of Junij payit to Schir Johne Ramsay, he laid doun be the Kingis command to the Gray Freris of Air, 28s.

1504. Item, the 23rd day of Junij, to the Gray Freris in Air, 40s.

1505. Item, the 28th day of Julij to the Gray Freris of Air, 28s.

1506. Item, the 18th day of Julij to the Gray Freris of Air, 42s.

1506. Item, the ferd day of Julij for ane cheseble of rede chamlot to the Gray Freris of Air, with cors of slicht gold, £4, 10s.

Item, for 6½ elne Bertane claith to be ane alb to the samyn; ilk elne 22d., summa 9s. 11d.

Item, for making of the samyn, 2s. 6d.

Item, for 18 unce silvir to be ane chalice to thaim, ilk unce 11s., summa £9, 18s.

Item, for making of the samyn, ilk unce 2s., summa 36s.

Item, for gilting of it. . . .

1506. Item, the 7th day of August, to the Gray Freris of Ayr, 42s.

1506. Item, the 7th day of Januar, for gilting of ane chalice to the Gray Freris of Air, £3, 4s.

1512. Item, the first day of Maij, to the Gray Freris of Air, 40s.

1530. Item, the 19th day of August, to the Gray Freris of Are, £10.

1532. Item, the 15th day of Junii, to David Purves, Masur, to pas with lettres fra the Lordis to the Wardane of the Gray Freris of Air, anent ane instrument pertenyng to the sisteris and airis of Carleton, 20s.

MUNICIPAL CHARITIES

EXCERPTS from MS. *The Buik of the Commoun Comptis of the Commoun Gude of the Burgh of Air*, beginnand in the yeir of our Lord 1535.

1535, Michaelmas, to the Frenchemen for ane . . . of vyne to the Gray Freris, £3, 10s.

1536, Michaelmas, for ane hogheid of vyne to the Gray Freris, £3, 17s. 6d. Item, to the Frencheman that brought in the wyn, 31s.

1537, Michaelmas, to James Johnestoun for vyne to the Gray Freris at command of the provest, bailleis and communitie, 48s.

1539, 27th June, for ane hogheid of vyne to the Gray Freris, £3, 14s.

1539, 27th June, for ane hogheid of vyne to the Gray Freris, £5.

1540, Martinmas, for a hogheid of vyne to the Gray Freris, 55s.

1540, for a hogheid of vyne to the Gray Freris the fifth day of August, 50s.

1542 (in the Dean of Guild's Account), Item, for vyne gevin to the tounis freindis that come aganis the Maister of Montgomery quhen he gatherit for the Gray Freir that wes put in the tolbuith, 24s. "To the pursuivant that brought the letters to use the Scripture in English, 2s."

1547, Michaelmas, to the Gray Freris at the tounis command, 53s. 4d.

1548, Michaelmas, for a hogheid of vyne to the Gray Freris, £4.

1549, Michaelmas, to the Gray Freris for a hogheid of wine and ane half, £7, 10s.

1550, Michaelmas, a hogheid of wine to the Gray Freris, £4, 15s.; also "for wine to the Gray Freris, £4."

1551, Michaelmas, for wine to the Gray Freris, 44s.; also for ane hogheid of wine to the Gray Freris, £4; also, to tak afeild the freiris discharge to the chakker, 11s.

1552, Michaelmas, for three hogheids of wine, two to the provost for his labors in getting in the byrun maills of Lee and Cartland, and one other to the Gray Freris, £13, 6s. For a hogheid of wine to the Gray Freris, £4, 6s. A boll of salt to the Gray Freris, 18s. Another boll of salt to the freirs, 18s.

1553, Michaelmas, to the freirs for a boll of salt, 20s.

1554, Michaelmas, for ane hogheid of vyne to the Gray Freris, £4, 5s. Ane hogheid of vyne to the Gray Freris, £4, 3s. 6d.

1556, Michaelmas, for salt to the Gray Freris, 39s.

1558, Michaelmas, for a boll of salt to the Gray Freris, 23s. 6d.

1576, In the town rental for this year appears the feu of the Grey Freiris yards, 53s. 4d.; while Edward Wallace pays for the feu of his two roods of the Gray Freris, 13s. 4d.; and Alexander Power for his rood, 6s. 8d.

CHAPTER IX—(*continued*)

OBSERVATINE FRIARIES

Elgin

During the organisation of the Conventual Province in the thirteenth century, there is distinct evidence that some of the friars settled for a short time at Elgin in a hospitium or rest-house near the Cathedral. Archibald, the reigning Bishop of Moray, was then willing, if not also anxious, to provide for the permanent settlement of the Franciscans in his diocese; and he selected as a suitable endowment for the friary the peace-offering that he had demanded from William, Earl of Ross, in expiation of the wanton pillage of the churches of Petyn and Brachuli. The Earl's charter[1] accordingly conveyed "in pure and perpetual alms two davochs of land in Ross, called Kattepoll, and one quarter of land called Petkenny, by their rightful marches with all their pertinents, for the provision and sustenance of the Friars Minor, who, for the time or in the future, may be in occupation of their house in Elgin beside the Cathedral, in such manner as the reigning bishop shall appoint; and he shall delegate some discreet man who, as faithful distributor, shall uplift the entire rents of the said lands at the terms of each year, and profitably apply the same for the benefit and necessary uses of the said friars, as shall seem most expedient. But if the said friars be not there, or are unwilling to remain, the rents of the said lands, by the advice of the said Bishop and his successors, and the Chaplain of Moray, shall be applied in maintaining two chaplains in the Cathedral Church of Elgin . . . the right of appointing and revoking the said chaplains being vested in the said Bishop and his successors."

[1] *Reg. Episc. Moraviensis*, No. 220, p. 281.

The Dominicans had, however, already established a priory in Elgin,[1] and the Franciscans therefore followed their invariable rule at this period in avoiding the burghs colonised by their rivals. The alternative clause of Earl William's charter was then put into operation, and two centuries later the successors of the two chaplains gave their consent to a Feu Charter of the identical lands of Cadboll, granted by Bishop Tulloch on 29th November 1478 to John M'Culloch at an annual duty of fourteen silver merks.[2] In the following year the first, and only, Franciscan friary in Elgin[3] was founded as an offshoot from the Observatine settlement in Aberdeen. "In the year 1479," says Father Hay, "lord John, Vice-Comes of Innes, of highest rank among the nobility of the northern parts of the Kingdom, moved to penitence and fervour by the preaching of the friars resident in Aberdeen, erected a magnificent convent in the town of Elgin, wherein there tarried twenty-four priests,[4] most diligent in preaching the word of God and in hearing the confessions of the people and the many clergy there."[5] In this founder and his unheraldic designation we may doubtless recognise James of the Beard, sixteenth laird of Innes, who was then a wealthy landholder, and, as cousin of the Earl of Huntly, may be considered "of highest rank among the nobility of the northern parts of the Kingdom." The architectural features of the friary can be appreciated from Professor Cooper's description of the ruins of the church before their restoration by the late Marquis of Bute: "The beauty of proportion is everywhere present; the curves and lines are unusually graceful for a Scottish church of so late a date; but everything is as plain as it could be, and there is not an inch of orna-

[1] 1230–34.

[2] *Reg. Episc. Moraviensis*, p. 232.

[3] The historians of Elgin have erroneously accepted the first of the alternative clauses of the original deed as positive evidence that a Franciscan friary was erected in the thirteenth century; whereas the charter of 1478 proves beyond doubt that the rents were applied to the maintenance of the two chaplains in accordance with the second clause. Moreover, the Bull of 1346 states that the Franciscans were then settled in "three dioceses and no more"—Glasgow, St. Andrews and Brechin—and there is no mention of a Conventual friary at Elgin in the *Exchequer Records*, the *Provinciale*, or the *Annales Minorum*.

[4] This number must be accepted with the customary reserve.

[5] *Ob. Chron.*

mental carving."[1] The church was a long narrow building of simple rubble work,—distinct from the polished ashlar of the Aberdeen Friary church,—and measured 117 feet in length by 29 feet 2 inches in breadth. Its windows were in part the handiwork of Friar Strang, the glass-worker of Aberdeen; and the distinctive feature was the large east and west windows of four lights and basket tracery, while in the south wall was a large gothic window that shed a side light over the high altar. There were two other altars in the church, to which the public had access by a door at the west end of the north wall, and a second door in the south wall led out to the conventual buildings and the cloister on the south side.

The victual allowance from the Crown amounted to ten bolls of wheat and a like measure of barley, paid by the Chamberlain of Moray,[2] and this was supplemented by occasional gifts of 40s., 28s., and £20 from the privy purse. From 1550 until 1559 the Burgh Treasurer entered in his accounts sums varying from 12s. 6d. to 28s. for the "Graye Freris almis salt," occasionally described as the "graith salt."[3] As in Edinburgh and Ayr, this payment was made from the Common Good and not from the burgh fermes, which had been in possession of the Earls of Moray since the grant of the Earldom to the natural son of James IV. and Janet Kennedy on 12th June 1501.[4] This childless Earl was a generous benefactor to the religious houses in his domains, one clause of his will, dated 8th June 1540, reading—"I leif I^{c} lib. (£100) to be given to the . . . Gray and Blak freris and in almos to puyr folkis at the discretioun of my executoris and oversman and mair at thair discretionis efter the payment of my dettis."[5] Rector Burnet of Methlick and Adam Gordon of Kinkell also provided for the support of the friary, the former by a legacy of 10 merks and the latter by an annual grant of alms.[6] Otherwise, its history from the date of foundation until the Reformation is

[1] *Transactions of the Aberdeen Ecclesiological Society*, 1891, p. 52.

[2] Summary *infra*, p. 364.

[3] *Treasurer's Accounts*, *Hutton MSS.*, Adv. Lib. Edinburgh; summary, *infra*, p. 365.

[4] *Reg. Mag. Sig.* (Print), II. No. 2586; *Exch. Rolls*, XV. 80–81.

[5] *Hist. MSS. Com.*, VI. Report, p. 671. [6] *Aberd. Ob. Cal.*

wholly unknown, and the scenes amid which the friars terminated their activity in the episcopal city cannot now be reconstructed. Reformation was mild in Elgin, and the absence of vindictive appropriation may be surmised from the fact that the Treasurer paid to the two conforming Observatines[1] £11, 12s. as the price "promeist to yaim for thair knok and bell."[2] The lands, like those of the Black Friary,[3] reverted to the family of Innes under payment of a feu-duty of 40s. in terms of a Crown Charter dated 20th April 1573.[4] The buildings passed into the possession of the town; and in 1563 they were converted into a local Court of Justice, John Baxter receiving 20s. "for bigging ye seittis to ye Lordis in ye Gray Freiris."[5] They were so used until the middle of the seventeenth century,[6] after which date they passed through various hands until 1891, when the ruins once more came into the possession of the Roman Church through their purchase by the Sisters of the Convent of Sainte Marie of Mercy. The church has since then been carefully restored through the liberality of the late Marquis of Bute.

ROYAL BOUNTIES TO THE FRIARS OF ELGIN

I. Exchequer Rolls

Payment of the victual stipend of 10 bolls of wheat and 10 bolls of barley is recorded in the Rolls of 13th July 1501, 29th July 1502, 9th July 1504, 5th July 1505, 10th July 1506, 2nd August 1507, July 1508, 19th July 1509, 2nd August 1510, 2nd August 1512, 29th July 1513, 17th July 1514, 3rd August 1515, 1523, 28th September 1558.

Partial payments of the same and acquittance of arrears are recorded in the Rolls of 9th November 1497, 28th June 1499, 13th July and 4th August 1501.

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[1] *Hutton MSS.*, *infra*, p. 365; *MS. Account*, 1562, *Collector-General*; cf. note, p. 154.

[2] *Burgh Treasurer's Accounts*, *Hutton MSS.*, *infra*, p. 365.

[3] Crown Precept, 17th June 1574; the Regent Moray remitted the payment of the feu-duty of £4, 3s. 4d. stipulated for in the charter (*Exch. Rolls*, XX. 203). A summary of the priory revenues will be found on p. 140.

[4] *Reg. Mag. Sig.* (Print), IV. No. 2131; Precept printed *infra*, II. p. 256.

[5] *Treasurer's Accounts*, *ut supra.*

[6] In 1586 the Compter entered 20s. "for ye tymmer furnisit be him at ye townis command to ye Justice Hous at ye last Justice court haldin in ye Gray Freiris"; *Ibid.*

17th August 1495. James Douglas of Pendreich, Chamberlain of Moray, to the Friars of Observance of Elgin as alms by precept of the Comptroller, 20s.

II. Treasurer's Accounts

1503. Item, the 8th day of October, to the Gray Freris in Elgin, 40s.
1504. Item, the 29th day of October, in Elgin, to Schir Andro Macbrek to gif to the Gray Freris thare, 28s.
1552. September 12th, be His Grace precept and special command to the Gray Freris of Elgin, £20.
1556. August . . . be the Quene precept to the Gray Freris of Elgin . . . (torn).

CITY TREASURER'S ACCOUNTS[1]

1550. Item, gevin for the Graye Freris salt, 18s.
1552. Item, gevin to ye Graye Freris for thair almis salt, 12s. 6d.
1552–53. Item, allowit 12s. 6d. gevin to the Graye Freris.
1554. Item, gevin to the Greye Freris for ane bowe graith salt, 18s.
1555. Item, gevin to ye Graye Freiris for ane bowe salt, 16s.
1557. Item, gevin to ye Graye Freiris for yair almes salt, 16s.
1558. Item, gevin to ye Gray Freris for ane boll of salt, 20s.
1559. Item, to ye Gray Freris for ane boll of salt, 28s.
The Comptar dischairgis him of £6, 14s. 4d. giffin to the laird of Innes for . . . of his cummeris of ye knok vas coft fra ye Gray Freris.
Item, to ye Gray Freris in complet payment of £11, 12s. promeist to yaim for thair knok and bell extending to £10.
1563. Item, for mending of ye trestis, 12d.
Item, for careing of them to ye freris, 20d.
1569. Item, 5s. money giffen for certain garrowin vaillis to big the seittis of the Gray Freiris conforme to the townis precept.
Item, 14s. giffin to Teophilus Jhonstoun for certand timmir giffin to big the seittis into the Gray Freiris.
Item, 20s. giffin to Jhone Baxter anent . . . and George Gaderar for bigging ye seittis to ye Lordis in ye Gray Freiris.

COMMON GOOD ACCOUNTS[2]

1583. Item, mair giffin to Jhone Williamson for the bigging of ye Gray Freir Wynd and the Schoill Wynd, 6s.
1586. The Comptar dischairgis him of 20s. promesit to him be ye townschip for ye tymmer furnisit be him at ye townis command to ye Justice hous at ye last Justice court haldin in ye Gray Freiris.

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[1] *Hutton MSS.*, Adv. Lib. The original record has been lost since General Hutton compiled his Collection, and an extensive but unsuccessful search for it was made by the late Dr. Cramond.

[2] *Ibid.*

CHAPTER IX—(*continued*)

OBSERVATINE FRIARIES

Stirling

This friary is inseparably associated with the pious and genuine remorse of James IV. for the unconscious share he had taken in the rebellion that terminated in his father's death at the cottage in Milltown, near Bannockburn, after the battle of Sauchie Burn in 1488. On his accession to the throne, the young king turned for spiritual consolation to the Observatines, as to a body of men whose religious profession suited his own morbid feelings of contrition, and ere long he decided upon the erection of their eighth friary within the precincts of his court at Stirling. After the custom of the time, it was to be the visible sign of his personal sorrow, in token of which he had already donned an iron belt as the rude penance imposed upon him by his confessor, Father Patrick Ranny, the first Warden of Stirling, and thrice Observatine Provincial Minister. To the exercise of religion James brought the same romantic enthusiasm that characterised his actings in other paths of life. The palliation of his penance suggested by Father Ranny and Pope Julius II. was rejected with spirited eloquence: "To the end of my life I shall gird myself with this chain, since my presence, though under compulsion, may have been the cause whereby my father lost his life";[1] and all external assistance towards the erection of his future chapel and retreat was refused with equal decision. In picturesque language, Father Hay tells us that the master of works was threatened with the severest penalties if he accepted even a nail, and the surviving portions of contemporary record indicate that Stirling was essentially a royal friary built at the expense of the privy purse. The

[1] *Ob. Chron.*

site selected was a prominent position on the brow of the hill leading up to the castle; and it is to-day covered by the square of ground on which the High School, the United Free South Church and the Trades' Hall stand.[1] Nothing is now known of its original dimensions or of the manner in which it was acquired; but we learn from the burgh records that, on 18th April 1524, the magistrates facilitated the extension of the friary yards by the gratuitous cession of "ane pece of thair commond land lyand at the south part of thair yaird equali gangand doune the bred of thair yaird to the Rud croft."[2] In the subsequent grant of a tenement and garden by James V. to Robert Spittal, the well-known tailor of Stirling, the subjects of gift are described as lying between the lands already in possession of Spittal, the friary, and the King's Street.[3] During the erection (1852) and subsequent extension of the High School in 1889, parts of the friary foundations were uncovered, and several relics of its churchyard were disclosed in the shape of bones and skulls.[4] In 1549, the enclosing walls of this graveyard embroiled the brethren in litigation with one of their neighbours, who had unwarrantably opened windows in, and built upon, "thai dyke of thair kirkyarde." The Chapter entered a protest in the burgh court against the offender through their procurator, Robert Lermonth, officially designed as acting "in name and behalf of the Quenis grace[5] and Wardane and convent of the Freiris Minouris of Striveling." Thereafter a "breve of lyning was purchest be the bredir" against this John Wallace; but a compromise was effected, and the record then proceeds on the narrative that the friars,

[1] *Landmarks of Old Stirling*, p. 121 (James Ronald).

[2] *Extracts from the Records of the Royal Burgh of Stirling*, p. 19 (R. Renwick).

[3] *Reg. Mag. Sig.* (Print), III. No. 2509.

[4] *The High School of Stirling*, p. 81 (Hutchison).

[5] An interesting illustration of the manner in which the Observatines observed the theory of Franciscan poverty. Under the canon law they were not owners but users of the friary and its pertinents; the absolute ownership being vested in the Holy See. Consequently, in civil law, a compromise with their scruples was effected by an indefinite recognition of the continuing interest of the founder and his heirs in the subjects (*Quo elongati*). In contradistinction, the Conventual friars invariably appear as absolute owners in all judicial proceedings instituted by them. *e.g.* Haddington, *infra*, II. pp. 72–73.

"movit of cheritee and nychtbour luiff," had agreed to tolerate their neighbour's building, and to "breuke tua nedmest windois," provided that they were well stanchioned with iron and "clois glassinit." On the other hand, Wallace undertook to build up his two upper windows and to prevent the "gavill" of his back stair from being seen from the churchyard.[1]

In selecting the year 1494 as the date of this foundation, the exiled chronicler doubtless refers to the first arrival of the friars in the burgh, where they received the same kindly welcome from the local clergy that had attended their earlier settlements. Several of them appear in the accounts as the spiritual friends of the less practical friars, and, after the manner of the German burghers who carried out the necessary arrangements for the settlement of the early Franciscan missionaries in their midst, an unknown burgess of Stirling assumed the rôle of "Gray Freris prouisour." On 9th May 1498 he is recorded as the recipient of £66, 13s. 4d. towards the "bigging" of the place.[2] The Bull of Erection[3] had been granted by Pope Alexander VI. on 9th January preceding in reply to the petition of James, and—after approving of the exemplary lives led by the Observatines, their unremitting and devout celebration of divine service, their preaching and discreet hearing of confession — it granted the customary license to proceed with the erection of the friary and its belfry, bell, burial-ground, cloister, refectory, dormitory, garden, plots and necessary offices. Building operations had been in progress for some time under the supervision of the "provisioner," and the month of April 1502 may be regarded as the probable date of their completion, when a weathercock was placed on the belfry at a cost of five pounds.[4] Between these dates the progress of construction may be followed in considerable detail. Three stones of tin from John, the locksmith of Stirling, several parcels of iron work, locks and chains supplied by a brother

[1] *Extracts from the Records of Stirling*, p. 55.
[2] *Treasurer's Accounts*, *eod. die*.
[3] *Dum inter cetera*, *supra*, p. 63.
[4] *Treasurer's Accounts*, 14th April.

craftsman in Edinburgh, and a pipe provided by a Portuguese merchant appear in the Treasurer's Accounts. Three crates of glass worth nine pounds were sent from Edinburgh for the windows of the church during the summer of 1501,[1] and there are evident signs of its internal completion about the spring of 1503 in the payment of forty shillings as his wages to the "wricht that makes the altair," in the purchase of ten ells of blue and green camlet to drape the fronts of the several altars, and in the setting down of three candelabra weighing forty-nine and a half pounds each. Meanwhile the process of furnishing had proceeded apace. During 1501 there were numerous and extensive purchases of grey cloth for habits, white cloth for blankets, white linen cloth from one Lion a tailor in Stirling, "braid dornyk," Breton linen for the "kirk graith," and thirty-four ells of the same material for surplices for the brethren. Two "pattenbreddis" of ivory bone cost four shillings, and, on 10th April 1502, Patrick Redheuch, who provided many of the church furnishings, received thirty-five pounds for "certane ymagis brocht hame be him to the Freris in Strivelin." Further payments of sixty-three shillings for forty-eight skins of Flanders parchment, and of eight shillings and sixpence for twelve native skins, indicate the studious disposition of the brethren in 1502, while they were in course of acquiring a conventual library. The task of providing this valued adjunct was almost entirely entrusted by their patron to the monks of Culross and Cambuskenneth, the leading caligraphists of their time in this country. In the course of the year, these schools of writing received fifty pounds from the Treasurer for books which they had sent to the Franciscans of Stirling, and during the following year they received payments amounting to £27, 6s. 8d. for other books, in addition to £4, 12s. for four "mes bukis," thirty shillings for "ane buk callit the *Sermones*," and nine shillings for one entitled the *Mamitretis*. Thus early in their history these ascetic devotees were in possession of a library virtually equivalent in value to the whole possessions pledged by their brethren in Dundee during the famine of 1481; and the statement of their chronicler, that the friary was a royal foun-

[1] *Exch. Rolls*, 16th August 1501.

dation, receives final confirmation in the Privy Seal warrants, constituting a commission of churchmen to audit the accounts of Andrew Ayton, the master of works.[1] He had assumed direction of the building on 20th December 1498, and we further learn from these writs that the erection of the friary coincided with the alterations and enlargement of the castle carried out at this date.

In the matter of material sustenance, King James was a no less generous patron to the friary, although the poet Dunbar is unsparing in his scoffs at the meagre fare that graced the refectory table, and the thin ale of which James sent forty-two gallons to the brethren on the occasion of his marriage with the Princess Margaret. Eight bolls of wheat, and a similar measure of malt for beer, constituted the permanent victual stipend, and whole or partial payments by the Chamberlain of Stirlingshire appear at intervals in the *Exchequer Rolls* until 1558. This allowance was delivered to the "Factors" of the friars, and it was supplemented by an annual payment of thirteen pounds, paid at one time to Mrs. Alison Melville or Crichton in weekly instalments of five shillings for providing the friars with provisions.[2] Mrs. Crichton was probably a "general" merchant in the burgh, and the practice, indicated by this entry so late as the sixteenth century, is of extreme importance in relation to formal observance of the strict rule, through the employment of spiritual friends, in the thirteenth century acceptance of the term.[3] Other tradesmen habitually received payments for such necessaries as barrels of oil and Hamburgh beer, which they had laid down for the friars; while one Leonard Logy is frequently recorded as the recipient of small sums to purchase "met and drink" for the friars. Among the clergy of the district the friars also possessed numerous spiritual friends, six of them appearing in the accounts of the Treasurer as intermediaries between the Franciscan conscience and the ordinary customs

[1] *MS. Reg. Privy Seal*, 1st February and 3rd August 1507, III. ff. 93, 119, *infra*, II. p. 258.

[2] *Exch. Rolls*, 21st July 1511.

[3] *Vide* similar practice at Glasgow, where he was also styled "prouisour," and at Perth, where payment was made to a layman in name of the friars. Cf. *infra*, p. 470.

of commerce. On occasion, the record bears that the money from the privy purse was given to those churchmen "to give to the friars," but for the most part the payments were made to them in return for money which they "had laid down" on behalf of the friars for such articles of food as twenty salmon, forty fresh kelyn and quantities of beer. The payment of £51, 19s. 10d. to John Ayton in 1502, on behalf of the friars, indicates a particular interest in the comfort of the brethren on the part of that ecclesiastic.[1] As befitted a Franciscan community, the lay brothers provided a part of the friary fare by the cultivation of vegetables, and in 1546 the Regent Arran compensated the Chapter to the extent of forty-four shillings "for their kaill destroyit and dountred be mennis feete";[2] but the payment of six French crowns to John Redheuch on 3rd March 1504, "for their clothes wesching" and other services, indicates less attention to the exigencies of domestic economy on the part of the Stirling friars than was customary among the early Conventuals.[3] The numerous gifts of food and ale from James IV. were doubtless due in part to the strain put upon the hospitality of the convent by the frequent residence of the court at Stirling, and by the obligatory visits of distinguished foreigners to the friary before they were received in audience.[4] Many other donations of trifling sums received from their patron illustrate his anxious care for their well-being; while that of fourteen shillings, described as the "Kingis offerand on the bred," at the dirige and mass celebrated in the friary on 29th January 1504 for the soul of his favourite, the unhappy Margaret Drummond,[5] is a pathetic illustration of the strange inconsistency between notorious immorality and deep religious feeling so prevalent at this period.

[1] *Treasurer's Accounts*, 1498–1506. [2] *Ibid.* 12th June 1546.

[3] Even the great Bonaventura did not disdain to perform his share in the menial work of the community. There is the oft-told tale that, when the papal envoys sent to present him with the Cardinal's hat arrived at the little friary of Migel, near Florence, they found him actively engaged in the humble duty of washing the dishes. Instead of interrupting his occupation, he calmly bade them hang the hat on a tree in the garden, which he pointed out, until he was able to receive them.

[4] *Ob. Chron.*

[5] Other Requiem masses were celebrated at Edinburgh.

After their patron's death, these doles of salmon, ale, coals and cravats, disappear from the accounts, and the fragmentary condition of the *Exchequer Rolls* denies us any information concerning the regularity in payment of the royal alms by the Chamberlain of Stirlingshire. They were paid by him in 1514; but in 1528 payment was made by the Comptroller, only by the consideration of the Auditors for this year.[1] The year 1531 was marked by a special donation of fifty pounds;[2] in 1542 the full stipend was again paid by the Chamberlain; and during the minority of Mary Stuart, the revenues were increased by an allowance of ten pounds, described as the Regent's alms. The first mention of it occurs during the regency of the Earl of Arran, and in 1555 it was paid, in addition to the old alms, by the Queen Dowager, with whom Stirling was also a favourite residence. The last act of royal charity towards the friary is recorded in the roll audited on 21st March 1560–61,[3] in the form of two barrels of West Sea herring from the young king and queen, some time after the Earl of Argyll and his associates had "purified" the religious houses of Stirling. Testamentary charities were neither numerous nor of great value. The earliest of which any record now survives was a legacy of twenty shillings in 1542 from one Thomas Stevenson of Callander;[4] and it is probable that the Chapter received a share of the residue of the estate of Robert Wemes, Vicar of Stirling, which was placed at the disposal of his executors for pious purposes. This churchman elected to be buried within the friary in preference to his own church,[5] and a practical illustration of his regard for the Observatines is afforded by his appointment of their Warden, Alexander Paterson, as *Overseer* of his executors. The friar naturally did not figure as an executor donee[6] along with the testator's illegitimate son and the other executors, who received gifts of five merks or rose nobles for their services. Two other

[1] *Exch. Rolls*, 20th August 1528. [2] *Treasurer's Accounts*, 3rd April 1531.
[3] It embraced payments between 1st November 1559 and 1st November 1560.
[4] *MS. Confirmed Testaments* (Dunblane), G. R. H., 1st August 1542.
[5] "Corpus meum tumulandum in loco Fratrum Minorum Struielingensium"; *ibid.* 18th April 1544.
[6] *Cum intellexerimus*, 5th April 1502.

instances of fiduciary trust being reposed in the Chapter occurred some years earlier. On 18th January 1533, Sir John Stirling of Keir set aside the purchase price of an annual rent, previously constituted in his favour, for the endowment of a daily service at the high altar in the Cathedral Church of Dunblane after his death. The fund was placed in the safe keeping of the Stirling friars during his lifetime by the chaplain donee, John Newton, an Archdeacon of the Cathedral.[1] In the preceding year, Sir Robert Batho endowed a chaplainry at the altar of St. Marie in the parish church of Falkirk, and bestowed the patronage of it on the Lyon King and two of his heralds. He, however, directed that the rents accruing during his life were to be placed in a box and entrusted to the custody of the Stirling friars.[2] During 1546, William Month, a burgess of Stirling, bequeathed five merks to the friars to pray for him.[3] In the following year, William Menteith of Kers left a legacy of eight bolls of wheat.[4] A legacy of ten merks appears in the testament of Gavin Dunbar, Archbishop of Glasgow,[5] and a boll of meal in that of Sir David Don of Kincardine;[6] while Rector Burnet sent his gift of ten merks shortly before his death in 1552.[7]

The internal history of the friary is briefly represented by a series of meetings and audiences within its walls. While in residence at Stirling, James IV. in the company of his suite attended the daily mass in the church, and thus provoked that rooted dislike of his courtiers for Stirling which found expression in Dunbar's humorous, but unpunished, sally against this "hideous hell."[8] During Holy Week, the friary was James' retreat from the world; and Father Hay has furnished us with an authentic account of the manner in which state business was cast aside while the King entered into the simple routine of friary life. On the Day of Preparation, we are told, he desired to partake of the bread

[1] *Reg. Mag. Sig.* (Print), 18th January 1532–33.
[2] *Ibid.* 3rd February 1531–32.
[3] *MS. Conf. Testaments* (Dunblane), 11th . . . 1546.
[4] *Ibid.* 8th April 1547.
[5] *Ibid.* (Glasgow), 30th May 1548.
[6] *Ibid.* (Dunblane), II. f. 35, 1st February 1553–54.
[7] *Aberd. Ob. Cal.*
[8] *Supra*, p. 66.

and water seated on the ground among the brethren; but the completeness of this unconventional scene is somewhat marred by their patron's submission to the remonstrance of the Warden, who induced him to assume the office of reader at the table until this ancient ceremony had been performed by the friars. Nevertheless, ambassador Dr. West could only report delays in his mission of 1513, because the Scottish King was still with the Observatines of Stirling;[1] and, despite his courtiers' lack of sympathy with this extravagant display of religious sentiment, James persisted in his regard for the churchmen of his choice until Flodden once more plunged the country into the miseries of a long minority. In all that concerned their interests or welfare the friars had found him a sympathetic Protector of the Observance, and to his pen they owed the most eloquent eulogy of their Order that has been preserved in Scottish record.[2] No doubt his death was regretted on sentimental as well as practical grounds; and we may suppose that the celebration of his obit was marked by a greater display of personal feeling on the part of the Stirling friars than was to be met with in the other Observatine houses, where the Protector's Mass was enrolled in the list of obligatory services.[3]

During the minority and reign of James V., the antipathy of the Regency towards the Observatines, their restoration to favour at his majority, and the reappointment of Friar Ranny as King's confessor,[4] are the only events of interest in the history of Stirling. The minority of Mary Stuart witnessed the return of the court to Stirling and the consequent increase of the friary stipend by the Regent's alms. Within the walls of its church, on 8th September 1543, the Regent Arran was impressively absolved by Cardinal Beaton from his share in the sacrilegious destruction of the friaries at Dundee; and, while his loyalty to France was still suspected by the Queen Dowager, he executed yet another instrument of resignation in the cemetery of the friary on

[1] *Henry VIII. Cal. S. P.*, I. No. 3838.
[2] Ruddiman, *Epis. Reg. Scot.*, I. 26–28; *supra*, p. 91.
[3] *Aberd. Ob. Cal.*; *Ob. Chron.*
[4] *Treasurer's Accounts*, 1531.

26th June 1545.[1] In the previous year, his imperious rival in the direction of Scottish politics had summoned him to appear in the friary church on 3rd June to shew cause why he should not demit his charge in her favour. A week later, surrounded by her court of malcontents, we may believe, Mary of Guise awaited his answer to her presumptuous summons in the friary from ten to twelve o'clock forenoon. Seven years later, on 5th April, the future historian of the Scottish Observatines received the habit of his Order in this friary in the presence of "her most Serene Highness Mary of Guise, widow of James V., and the chief nobles of the kingdom."[2] However, considering that the Queen Dowager did not return to Scotland from France until the end of November of that year, it is evident that the chronicler, with the inherent Franciscan disregard for chronology, has either mis-stated the date of his admission to the Order, or has surrounded the ceremony with a setting of wholly fictitious detail. Another inmate of the friary who achieved a certain celebrity in his day was the venerable Friar Ludovic Williamson, Provincial of the Observatines. At the age of eighty-eight years, conscious of his approaching end, he quitted Stirling for Edinburgh, where he resigned his seal of office and foretold the imminent changes in Church and State before entering upon his long rest. His premonitions were quickly fulfilled. On New Year's day 1559, the friars discovered the "Beggar's Summonds" affixed to their gates, and the last week of the month of June following witnessed the sudden ruin and destruction of their home in the manner already described.[3] The laconic entry of 16th April 1561 in the burgh records illustrates the completeness of the devastation and the disappearance of a prominent landmark on the face of the castle rock—"The counsall, present for the tyme, grantit that the thesaurair suld big and repayr ane payr of bottis (butts) in the yarde sumtyme callit the Grayfreir yarde apon the townes expens."[4]

None of the friars remained in Scotland in receipt of

[1] *MS. Notarial Protocol Books*, G. R. H. (James Colville), Vol. II. *eod. die.*
[2] *Ob. Chron.*
[3] *Supra*, p. 146.
[4] *Extracts from the Records fo Stirling*, p. 78.

the customary pension of £16 after the departure of the Observatines in the summer of 1560. Endowed with no permanent sources of revenue, their friary does not appear in the list of contributories to the King's Patrimony or the funds of the new Church;[1] but a general conveyance of its site and pertinents was included in the Crown charter of the ecclesiastical properties within the burgh granted by Queen Mary on 15th April 1567 in favour of the magistrates, for the support of the ministry and maintenance of a hospital for the poor and infirm.[2] Meanwhile the Earl of Argyll had seized the ruined buildings; and so, in 1573, when the magistrates were called upon to give up an account of their intromissions to the Lords Commissioners, the burgh representatives could only report that "my lord of Ergile has the yaird and roume of the place, and sua we ressave na proffeit as yit."[3] They acknowledged no returns from any Observatine endowments; and, while admitting the receipt of £10 from those of the Black Priory,[4] they excused their previously meagre returns on the ground of the "gryte expense in setting furthward of the trew religion of Jesus Chryst at all tymes sen the beginning thairof within this realme."[5] This indefinite manner of accounting failed to satisfy the Commissioners, who ordered "ane perfyte and particulare rentale of the haill freiris agane the nixt Assemblie"; but in the absence of that modified rental the immediate fate of the friary lands and their value are now unascertainable.

Lucas Wadding tells us that the friary seal bore the "effigy of St. Bernardine with the name Jesus on his right hand, in the left hand a book, and at his feet three pontifical mitres."[6]

[1] *MS. Accounts of the Collector-General and Sub-Collector*, 1561–89.

[2] MS. original in Burgh Charter Room: printed in *Charters and Documents of the Royal Burgh of Stirling*, pp. 92–99. Precept, *eod. die. MS. Reg. Privy Seal*, XXXVI. f. 72.

[3] *MS. Rental of Chaplainries*, 12th August 1573; *infra*, II. p. 261.

[4] This daill silver or obits was returned at fifty-seven shillings in 1561. The last Dominican Prior received a pension of £25, 6s. 8d., and his predecessor in office, Friar William Henderson, one of £26. *MS. Accounts, Collector-General*, 1561.

[5] *MS. Rental of Chaplainries.*

[6] *A. M.*, XV. 349.

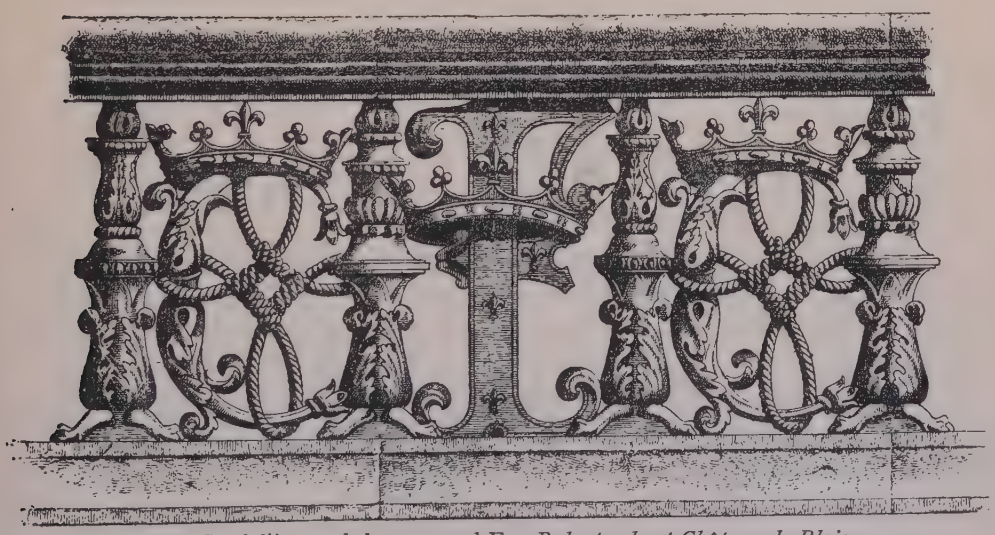
ROYAL BOUNTIES TO THE GREY FRIARS OF STIRLING

I. Exchequer Rolls[1]

Whole or partial payments of the annual allowance of £13, one chalder of wheat, and one of malt are recorded as follows: In the rolls of 2nd August 1507, four bolls of malt; 10th July 1508, £6, one chalder of wheat, one chalder of malt; 19th June 1509, eight bolls of malt; 13th August 1510, four bolls of wheat and four bolls of malt; 21st July 1511, £10, 5s.; July 1512, £1, 18s., eight bolls of wheat, eight bolls of malt; 30th July 1513, and 6th July 1514, £13, eight bolls of wheat, eight bolls of malt; 20th August 1528, £6, 13s. 4d.; 8th August 1542, 23rd September 1551, and annually in each roll thereafter until that of 5th September 1558, £13, one chalder of wheat, one chalder of malt.

Payments of the sum of £10, designed as the Governor's alms and the Queen's alms, are recorded in the rolls of 1550 and 1555.

[1] The numerous entries contained in the *Treasurer's Accounts* and legacies bequeathed to this friary are fully analysed, *supra*, pp. 368–73.



The Cordelière and the crowned F. *Balustrade at Château de Blois.*

CHAPTER IX—(*continued*)

OBSERVATINE FRIARIES

Jedburgh

The papal sanction to the erection of the ninth and last Observatine friary, in Jedburgh, and the allegations of Sir Thomas Craig concerning the provenance of the funds for its purchase and construction, have been considered in an earlier chapter. The subsequent history is little more than an arid catalogue of pillage and destruction, punctuated by notices of gifts from the privy purse towards the "edificatioun and reparatioun" of the friary—grim testimony to the presence of a ruthless foe. Its first destroyer was Lord Surrey, who raided the district in 1523 and sacked Jedburgh on 24th September in obedience to his sovereign's orders.[1] Three years later, James V. contributed £10 and £14 for its restoration,[2] and in July 1526, when he visited Jedburgh for the purpose of quelling some flagrant disorders on the Marches, the friars were able to present the young king with a plate of cherries grown in their orchard, receiving in return a gift of forty shillings from the royal purse.[3] In 1541, another contribution of £20, to "help the reparation" of the place, points to a second disaster unrecorded in general history; and, in 1544, the friary shared in the destruction effected by Lord Eure and his son. Lastly, although it could only then have been in a state of partial repair, the friary appears in the list of places destroyed by Hertford, who laid waste the Merse and Teviotdale in September 1545, to

[1] *Henry VIII. Cal. S. P.*, III. ii. Nos. 3240, 3360.

[2] *Treasurer's Accounts*, V. 306.

[3] *Ibid.* p. 277. "To the Cordyler freris that brocht the kingis grace cheryis at his grace's command, xls."

avenge the death and defeat of Lord Eure at Ancrum Moor on the 27th of February preceding.[1]

The friary stood in the Friars Gate behind the High Street and occupied an area of about two acres, which the historian of Roxburghshire (1864) believed could be identified with a house then known as the Friars, and the building belonging to the British Linen Company's Bank.[2] At the Reformation the site and buildings passed into the possession of the magistrates, and the persistence of the place-name is proved from the Charter granted by Charles II. in 1671, confirming the Town Council in *inter alia*, "All and haill the yards called the Friars' Yards presently possessed by George Moscrip, formerly bailie of our said burgh."[3] No trace can now be discovered of the annual allowance, if any, paid to this friary from the Exchequer; and, of its inmates, only the "Father of the Observant Frears of Jedworth," who preached at Norham in 1524 and undertook to convey a letter from Henry VIII. to James V.,[4] and Adam Abel are known to history. The former has been identified as "one of the Homes—a brother, it would seem, of the two who had been executed—and therefore not likely to bear much good will to Albany and the French cause";[5] but this statement is not supported by the English records from which the incident was taken.[6] The latter is the reputed author of the *Wheel of Time*, a chronicle of small historical value written about 1533. A manuscript copy of this work appeared in the sale of Lord Cromarty's books (1746); and, from Dr. Laing's analysis of the evidence concerning it, we may accept Friar Abel as the only Scottish Franciscan, other than Father Hay, whose literary activity is now vouched for by credible evidence.[7]

[1] *Henry VIII. Cal. S. P.*, V. p. 523.

[2] Alexander Jeffries, *The History and Antiquities of Roxburghshire*, II. 106–107. In a charter, dated 12th August 1566, by Andrew (Hume), Commendator of Jedburgh, to Mr. John Rutherfurd, burgess of Jedburgh, of the lands of Castlewod, etc., exception is made of "illis sex acris terrarum apud Fratres Minores de Jedburcht adjacentibus."—*MS. Charters by Abbots and Commendators of Jedburgh*, 1479–1596, G. R. H.

[3] *Ibid.* II. 146.

[4] *Supra*, p. 76.

[5] Hill Burton, *History*, III. 120.

[6] *Henry VIII. Cal. S. P.*, IV. iv. 76.

[7] *Proc. Soc. of Antiq. of Scotland*, XII. 72. Nor is there any mention in Father Servais Dirks' exhaustive *Histoire Littéraire et Bibliographique des Frères Mineurs de l'Observance en Belgique et dans les Pays-Bas* of a single literary work by a Scottish friar from the time of Cornelius down to the 17th century.

CHAPTER X

THE BROTHERHOOD OF PENITENTS THIRD ORDER OF ST. FRANCIS

Development, characteristics and organisation in the thirteenth century—Scottish Congregations—Letters of Confraternity—The Regular Tertiaries—*Supra Montem*—Angelina de Marsciano—The Rule—Introduction into Scotland—Nunneries of Aberdour and Dundee—Scope of their work—Fate of the nunneries.

DISTINCT from the propaganda of poverty and humility that reached its apogee in the life and teaching of St. Francis, the religious associations or confraternities of devout laymen in the beginning of the thirteenth century were a definite protest against the decadence and absolutism of the Church. It was in the nature of things that Franciscanism should swell the number of penitent laymen far beyond the dreams of the already formally constituted Humiliati, and that these starved souls should look to the first Friar for guidance, ere they entered upon the phase of disintegration in accordance with the varying religious sympathies that inevitably permeate the most restricted community of laymen.[1] Their ideal, as formulated in the "Memorial of the Brothers and Sisters of Penitents,"[2] prepared by St.

[1] *e.g.* the preference for the ministrations of a Friar Minor, a Dominican Friar, a Regular, or a Secular.

[2] *Regula Antiqua Fratrum et Sororum seu Tertii Ordinis Sancti Francisci*, ed. M. Paul Sabatier, "Op. de Critique Historique," Fasc. I. 1901 (*infra*, II. p. 115); Critical study, *Les Règles et le Gouvernement de l'Ordo de Pœnitentia au XIII^e siècle*, by R. P. Pierre Mandonnet, O.P., *ibid.* Fasc. IV. 1902. The attribution of this Rule to St. Francis, in collaboration with Cardinal Ugolini, is definitely established by these erudite scholars of Franciscan origins. Only a specialist in this field of investigation can hope to lay down principles which will withstand minute criticism, and students of Franciscan history therefore wait with impatience an authoritative work upon the disintegration of the fraternity into the lay associations of Penitents, who embraced in greater or less detail the *Regula Antiqua*. Cap. X. § 12, "*DE HAC FRATERNITATE ET DE IIS QUI HIC CONTINENTUR nemo exire*

St. Francis, assisted by Poverty, Chastity, and Obedience, presenting the Rule of the Third Order to its Patrons, St. Louis, King of France, and St. Elizabeth of Hungary.

VOLTERRA, *Della Robbia.*

Francis,[1] in collaboration with Cardinal Ugolini, was two-fold. As practical Christians linked together by the sacred ties of brotherhood and charity, they longed for immunity from the degrading influences of contemporary civilisation, and for freedom from the absolutism of the hierarchy in the exercise of religion. The Penitent avoided profligate revels, spectacles or dances,[2] and accorded no support to actors or mountebanks. Simplicity and the absence of ornament were the dominant note in his dress. At table he was temperate both in meat and in drink. He carried no death-dealing weapon,[3] and was slow to take an oath.[4] The sick of his community during life and after death were his first care, and the litigious spirit was deemed inconsistent with true penitence.[5] For the idealist, this practical form of Christianity was not inconsistent with the existing social order. The world was the cloister of the Penitent. The ties of matrimony and family were no impediment to brotherhood, save that the wife required her husband's consent. The entrant need but purge his erstwhile sins of worldliness by restoring the objects of his cupidity, obtained by the fraud or guile that finds shelter beneath the cloak of legal morality. Thereafter, he was freed from the temptations that surround the acquisition of wealth, in that he reserved for his needs, according to his rank or station in life, no more than a

valeat nisi religionem ingrediatur," clearly indicates that St. Francis was legislating for a special class of Penitents who were in sympathy with his propaganda, as well as for the general body of Penitents. The passage from the *Three Companions*—"*Similiter et viri uxorati et mulieres maritatae a lege matrimonii non valentes* DE FRATRUM SALUBRI CONSILIO *se in domibus propriis arctiori pœnitentiae committebant*"—illustrates the influence of the Friars Minor upon the movement.

[1] Cap. XIII. § 5, Addition of 1228, "*ista fraternitas quae a beato Francisco habuit fundamentum*"; *Supra Montem*, 17th August 1289, "*Quia vero presens vivendi forma institutionem a beato Francisco praelibato suscepit.*" *Vide* Father Mandonnet, *op. cit.*

[2] *Ut cum majori*, 21st November 1234—"*Cum igitur dilecti filii Fratres de Pœnitentia mundi delicias aspernentur.*"

[3] Modified in the second Penitent Rule dating from the year 1234 (Father Mandonnet), which was formally confirmed in the *Supra Montem* of 1289: "*Impugnationis arma secum non deferant, nisi pro defensione Romanae Ecclesiae, christianae fidei vel etiam terrae ipsorum aut de suorum licentia ministrorum.*"

[4] Cf. functions of the Procurator on behalf of the Friar Minor in this respect; *infra*, p. 467.

[5] Cap. X. § 2, universal application; modified in 1228, cap. XIII. § 13, within the fraternity.

strictly necessary portion of his own personal fortune. The yearly *surplus* he was bound to yield to the claims of charity; and so he longed for the realisation of the ideals that every Christian civilisation in Europe has striven after in vain.

In religious profession, the dogma of the Penitent was that of the Holy See, and the privileges of confraternity were denied to the heretic. He must pay the tithes demanded by the Church, perform its offices according to his intellectual capacity,[1] and make confession thrice in the year.[2] But by reason of the grave danger threatened by his protest against decadence he became a privileged member of the Church. In the performance of his civic duties, he found shelter behind the weight of its authority during the infancy of the fraternity.[3] In the domain of religious discipline he had the unusual privilege of accepting dispensation at the hand of the Visitor from attendance at the Mass, if such were approved of by the Minister or Master of the local association, in actual practice a layman. The fraternity met once a month in a church designated by the Minister to listen to the exhortations of an instructed *religiosus*, who was not of necessity an ordained priest, and was occasionally the lay Master, under the title of Doctor or Provincial, from whom the Penitents received doctrinal teaching.[4] The control of

[1] Cap. IV. In later years, many churchmen became members of one of the recognised Third Orders; but mention of them as Penitents, and the definition of their duties, as such, in the Rule of 1221 illustrates how universal the movement was.

[2] Altered in 1228 to twelve monthly confessions, and again in 1234 (Cap. VII.) to three confessions.

[3] Military service, supplemented by the Order of Gregory IX. to the Bishops in the *Detestanda*, 30th March 1228, "*ut vos* (*fratres*) *servarent immunes a juramentis quae civitatum et locorum rectores super eorum sequela extorquere a vobis illicite contendebant, defendentes vos ne officia publica recipere vel nova exactionum vel alterius gravaminis onera contingeret vos compelli.*"

[4] This anomalous state of matters was defined by St. Bonaventura in his reply to the critic, who reproached the Friars Minor with neglect of the religious life of the Penitents. The churchmen, he wrote, "*infamarent etiam nos quando haberemus cum eis aliquando secreta capitula, quasi celebraremus conventicula haereticorum in latebris, cum ipsi potius Ecclesiae rectores deberent eos secundum morem Ecclesiae corrigere, si quando offenderent, et punire*" (*Liber Apologeticus*, *Bonaventurae Op.*, VIII.). An evident meaning of this paragraph is, that the Friars Minor declined to take the risk of incurring the charge of heresy by presiding at the *monthly meeting* of the Penitents in the rôle of the *religiosus instructus* provided for in the Memorial of 1221; and, if there were abuses among the Penitents, it was the duty of the clergy rather than the Friars Minor to correct them, because

the Curia over these individualists was therefore relatively indefinite, and the delicacy of the problem may be inferred from the refusal of the First Order to visit and correct the Penitents. To the Curia, the Friar Minor appeared the natural pastor, inasmuch as the Memorial proceeded from St. Francis;[1] but the sturdy independence of the fraternity in defence of their freedom of choice, and the individual preference for the ministrations of the other Orders, tended to the constitution of Penitent communities attached to the Order of their choice.[2] The *Supra Montem* accord-

the Penitents were not explicitly thirled to the Friars Minor either for religious instruction or correction during the Generalship of Bonaventura (Rule of 1234). This construction is wholly in agreement with the strained relations then subsisting between the Friars Minor and the churchmen, who resorted to the charge of heresy in every conceivable form to discredit the friars (*infra*, Chap. XI.). Father Mandonnet (*op. cit.* pp. 186–191, 220–221), however, contends that this passage proves that the Penitents were habitually visited or corrected by laymen, although their second Rule of 1234 provided only for an ordained priest. When analysed, his argument depends upon the identification of the *Magistri Pœnitentium* with the *Visitator*. Bonaventura's reply does not appear to warrant this assumption. The *Magister* is quite distinct from the *Visitator* in the first and second Rule, and the subsidiary justification of Father Mandonnet's contention (p. 188) from the proviso of the *Supra Montem—nolumus tamen congregationem hujusmodi a laico visitari*—is vitiated by the context of the proviso. The *laicus* here referred to was a lay brother of the Friars Minor, to whom Nicolas IV. endeavoured to submit the Penitents by suggesting that they should choose their *Visitator* and *Informator* from the ranks of the Minors. On p. 220, in contradiction to p. 188, Father Mandonnet agrees that the *laicus* struck at by the proviso of the *Supra Montem* was a lay Franciscan; and, in absence of convincing evidence on this obscure point, it is incredible that the Holy See should have tolerated not only doctrinal teaching but also correction of the Penitents by laymen for more than half a century. It would even be dangerous to admit the principle of regular doctrinal teaching by laymen, because the Minister General is a controversialist in the above passage; and it is far from the only case in which he selected the particular as an illustration of the average. The sting in the phrase commencing *cum ipsi potius* is obvious. It is repeated in the inverse sense in his justification of the friar as a confessor (*infra*, pp. 422–23); and, when the Friars Minor did assume the duties of pastors and correctors in accordance with the *Supra Montem*, the (German) clergy, despite the *Super cathedram*, retaliated with their old weapon, sentence of excommunication; *Etsi apostolicae*, 23rd February 1319.

[1] *Unigenitus Dei filius*, 8th August 1290: "*Et cum naturalis persuadeat ratio et rationi aequitas acquiescat, ut praedicti ordinis professores . . . de Ordine supradicto Fratrum Minorum visitatores et informatores assumere procurent.*"

[2] *e.g.* Dominican Tertiaries under the Rule of Munio de Zamora, 1285. For its relation with the second Penitent Rule of 1234 see Father Mandonnet, *op. cit.* 210–211. The preceding control of the Friars Minor over the Penitents is happily summarised at p. 222 (*op. cit.*), according to the periods during which the primitive spirit was in the ascendancy among the Franciscans. The same pheno-

ingly led to the formal constitution of those Penitents who sympathised with the Franciscans, under the designation or canonic title of Tertiaries or members of the Third Order of St. Francis.

In this country, the data requisite for any solid generalisation are almost entirely wanting, and our review is of necessity limited to a few isolated cases. The Ragusan manuscript written by Friar Peter of Trau[1] about 1384 records the existence of three Tertiary Congregations at that date, and a little more than a century later our native records[2] indicate that another had been formed in Brechin under the influence of the Observatines of Aberdeen. In this case, John Leis, Chaplain of Brechin Cathedral, was described as "chaplain to our confraternity," and that is a designation which it would be unnatural to explain in any other context than the provision of the Memorial.[3] The visitation of the members would be carried out by the Observatines who periodically visited Brechin from Aberdeen and were entertained in the house of the Tertiary chaplain John Leis. Chancellor William Ogilvy of Brechin was also a member of the Third Order, and acted as host of the friars during their visits to his town. There is nothing to indicate that he assumed the office of chaplain to the Tertiaries; and, if an Observatine of Aberdeen did not visit Brechin for the monthly reunion, we may surmise that, as Chancellor, he delegated one of his subordinates to fill the post of monitor.[4] In Aberdeen, also, the names of Rector Burnet of Methlick, Elizabeth Vindegatis and Mariota Chalmer are met with as Tertiaries who took a warm interest in the Observance, the last-mentioned being buried in the Franciscan habit before the friary altar of the Blessed Virgin. During his brief residence in Scotland between 1535 and 1539, George Buchanan ridiculed the privileges with which

mena will be observed in the reversion of the control to the primitive Observatines at the end of the fifteenth century.

[1] Bodleian Library MSS., *Canonic. Miscell.*, 525: described by Mr. A. G. Little, *Op. de Crit. Historique*, I. 251–297.

[2] *Aberd. Ob. Cal.*

[3] Cap. VII.

[4] Cap. VII., "*Qui eos moneat et confortet ad pœnitentiam, perseverantiam et opera misericordiae facienda.*"

the people believed that the Tertiary habit was endowed. They were, however, material[1] as well as spiritual,[2] and the suffrages of the Franciscan, or of any other Order, were a privilege not lightly esteemed by laymen in whom the leaven of religion was present. When brought to task before the Portuguese Inquisition,[3] the Humanist naïvely replied he was unaware that these indulgences had been granted by the Pope, and he therefore doubted the promise of St. Francis because no mention of it was made in his biography. Interested only in securing a recognition of papal indulgence, and indifferent to the vindication of Franciscan privileges, the Inquisition did not focus attention upon the evasive nature of this reply. In the absence of any reference to the Rule of the First Order, or to the Testament of St. Francis, there is little doubt that Buchanan's raillery was directed against the Tertiaries who lived in the world; and the resentment of the friars may be appreciated from the fact that the privileges of brotherhood were then granted by the First Order as a definite expression of its gratitude to laymen in return for their generous support—"because we cannot employ the temporalities of the Vicar in rewarding worthily and rightly your affection, yet are we bound, so much as in us lies and as your love and good deeds deserve, to repay the debt of gratitude in spiritual things."[4] Of itself this implies a radical innovation upon the constitutions of the thirteenth century, and illustrates the completeness of the control acquired over the Tertiaries by the Friars Minor. In 1221, the admissibility of the candidate at the close of his noviciate was decided upon by the Minister and the brethren.[5] At the end of the fifteenth century, the Letter of Confraternity was granted by the Chapter General of the First Order, and,

[1] Provision during sickness for poor sisters and brothers, and cost of their funeral services; caps. VII., IX.

[2] *e.g. Exponi nobis*, 6th January 1514-15, conferred upon the Tertiaries all the privileges of ecclesiastical persons.

[3] *Inquisition Records*, pp. 5, 26.

[4] Letter of Confraternity to Sir Thomas Maule of Panmure, *infra*, II. p. 265. These letters must not be confused with the indulgences sold by the Pardoners.

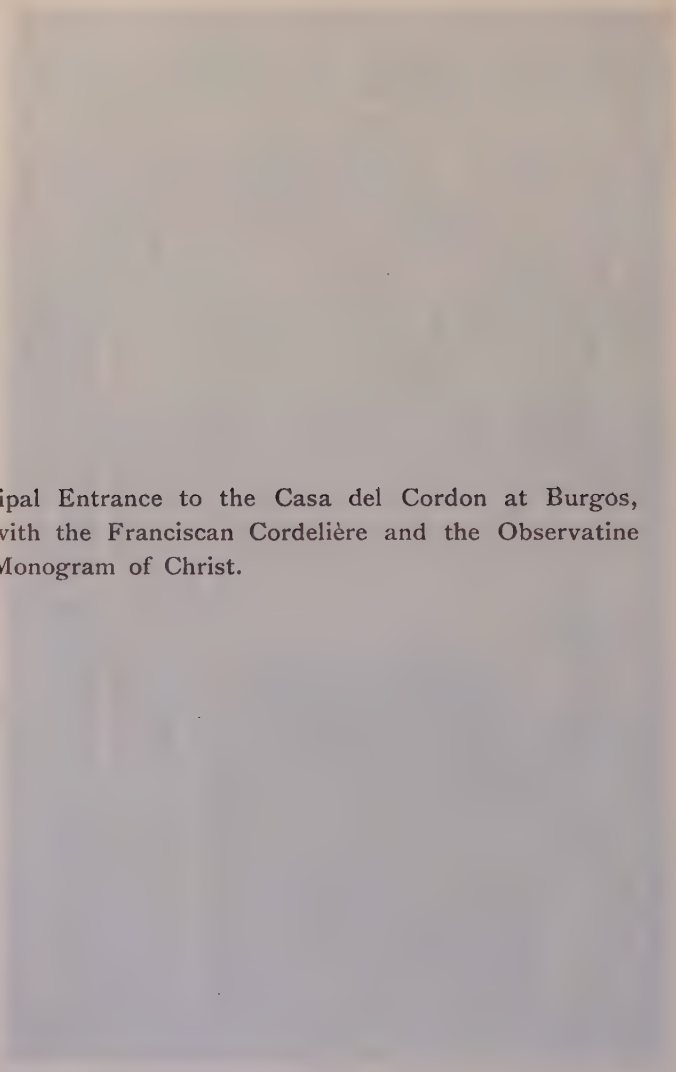
[5] Cap. X. This system no doubt continued to govern the admission of ordinary members.

at some date prior to 1542, the power of admitting "persons devoted to our Religion"[1] had been delegated to the Provincials by the Observatine Minister General.[2] Of these grants to Scotsmen four at least are now extant, and from them we learn that Robert Arbuthnot of Arbuthnot, John Drummond of Drummond, Sir Thomas Maule of Panmure, and Sir Patrick Hepburn of Wauchton, all special benefactors of the Scottish Observatines, were admitted to the privileges of confraternity.[3] "Whereas, in things temporal we can make no acknowledgment of your charity," says the Letter granted to Robert Arbuthnot, "the fervour of your devotion to our Order, nevertheless, demands of us in things spiritual fitting recompense for your kindly benefits, in so far as in us lies with the help of God, and as we present your desires before God, and as your charity deserves. Wherefore, in life and in death, I receive you into our confraternity and to general and special participation in all charitable and meritorious deeds, namely, masses, prayers, divine offices, devotions, suffrages, fasts, vigils, discipline, and other spiritual advantages, graciously granting to you by the tenor of these presents (the benefit of) everything which the Son of God, the author of all good, appointed to be done by the friars subject to me, the sisters of St. Clare, and the brothers and sisters of Penitence; so that by the aid of manifold suffrages you may merit increase of grace in this life and the reward of eternal life hereafter. Desiring that when your death—and for long may God deign to defer it so that with profit you may practise good works—shall be announced in our Chapters, there may be offered on your behalf the prayers that it has hitherto been the laudable custom in our Order to offer for distinguished benefactors." The Conventual friars also admitted generous patrons to the confraternity in accordance with the decision of their Provincial Chapters; but in the case of the Duke of Montrose and Lady Margaret, his wife, who were admitted in the Provincial Chapter held at Inverkeithing on 2nd August 1489, the formal letter of the

[1] *i.e.* Order.

[2] Letter of Confraternity to Sir Patrick Hepburn of Wauchton, *infra*, II. p. 266.

[3] *Infra*, II. pp. 263–66.



Principal Entrance to the Casa del Cordon at Burgos, with the Franciscan Cordelière and the Observatine Monogram of Christ.

Chapter General homologating this grant has not been preserved.[1]

The Penitents who lived in the world early abandoned the distinctive dress provided for in the Memorial; and in its place they wore under their secular clothes a small serge tunic girt about with a white cord. On occasion, distinguished members wore a gold chain round the neck fashioned after the form of the Cordelière. It also entered extensively into architecture, being proudly sculptured by the

The crowned F of Francis I., encircled with the Franciscan Cordelière. *Château de Blois.*

Tertiary over a door or window of his house intertwined with his own coat of arms,[2] while his furniture, hangings and books were often ornamented with it. Duchess Isabella of Brittany, daughter of James I., it will be remembered,[3] was a member of the Third Order, and in her portrait of 1464 the

[1] *Infra*, II. p. 128. William, first Earl of Seton, who died in March 1409 and was buried in the church of the "Cordelere Freris in Haddington," was also, it is alleged, a member of the Brotherhood of Penitents; *supra*, p. 177.

[2] *Vide* pp. 167, 247, 351, 377, 488.

[3] *Supra*, p. 52. The coat of arms, monogram and device of Anne of Brittany who married Charles VIII. of France and united the duchy in the French crown, still appear on the walls of the Châteaux of Blois, Loches, and others, with the Cordelière placed round them.

Cordelière falls prominently over her gown, on which the arms of Scotland and Brittany are impaled.

In this phase of the Penitent movement we recognise the type of humanity which does not possess the religious vocation, but which would fain live in intimate association with the Church, in the hope of realising its precepts in their lives. At an early date, however, the fraternity entered upon another phase of evolution distinctly foreshadowed in the Memorial of 1221—"No one may leave this fraternity, and those comprised herein, unless he enter a religious order."[1] A century later in his comment upon the *Supra Montem*, John XXII. expressed the ecclesiastical view of this injunction: "We approve of your intention to live in obedience, poverty and chastity in as much as that life is praiseworthy, very useful and in accordance with the intention of St. Francis; and we declare that it is not contrary to the Rule of Nicolas IV. which you profess. That Rule, according to the spirit of its founder, intended that this Order should be for persons of both sexes living in the world, but it never forbade its members to lead a more perfect life."[2] In a word, contact with religion amid discouraging and often barbarous conditions of life subdued the individualism of the Penitent, because he was a victim to fear of his surroundings. The family tie yielded to a longing for the perfect life that could only then be realised by the average personality within the precincts of the cloister. Development on these lines was temporarily arrested by the *Sancta Romana* of John XXII., which vetoed the formation of unauthorised congregations, with the intention of suppressing the Fraticelli and the extreme Spiritual Franciscans. The Observatine revival on orthodox lines was, however, at hand, and under its influence the Tertiaries inaugurated the régime of regular houses for each

[1] Cap. X. § 12. The life of Saint Elizabeth of Hungary at once suggests itself as an illustration of the transition from the secular Third Order to the regular Third Order, that is from the Penitence of Bona Donna to that of Angelina de Marsciano.

[2] This deviation from the intention of St. Francis, distinct from that of Cardinal Ugolini who collaborated with him in the preparation of the Memorial, cannot be more exactly expressed than in the words of M. Sabatier: "St. Francis no more condemned the family or property than Jesus did; he simply saw in them ties from which the apostle, and the apostle alone, needs to be free."

sex.[1] The picturesque personality which effected this compromise between the Rule of the Claresses[2] and the Rule of the Penitents was Angelina de Marsciano (or de Foligno), who was permitted[3] to retire from the world for stricter observance of the Third Rule.[4] Subsequent to 1289, the Friars Minor had transformed the "persuasion" of Nicolas IV. into a definite right of control over the instruction and visitation of the Tertiaries affiliated to their Order. The regular Sisters of Angelina were now freed from this jurisdiction, by reason, it is said in the Bull, of the scandalous lives of certain Conventual friars of Perugia whose control had made the Tertiaries objects of ridicule to the townsmen.[5] Instead, the Memorial of 1221 was revived, and the communities were empowered to select their priest and visitor from any approved Order, or from among secular priests of good repute. The continuing influence of the Memorial is to be observed in the proviso against the initiation of lawsuits by the Sisters, the care and visitation of their own sick, the revival of a distinctive dress, in which the veil played an important part, and the increase in the number of confessions from three to twelve; while the Rule of the Claresses modified the hitherto uncontrolled freedom of resort to the world, by a definite injunction that the Sisters were not to frequent the world, and never at night, without the sanction of their Superior, and that they must avoid the society of women *ornatae mundano cultu*. After the model of the First and Second Orders, the Superior of the Italian Tertiary com-

[1] So far as can now be ascertained, there were no regular houses of male Tertiaries in Scotland, and no account is taken of that subdivision in the remainder of this chapter.

[2] Perpetual cloister and, as modified by Urban IV., common ownership. *Infra*, p. 455.

[3] Constitution unknown, homologated by Eugenius IV. in *Apostolicae Sedis*, 2nd May 1440. The statement in this Bull that Angelina received this permission from Urban V., 1362–70, does not agree with her biographer's dates.

[4] *i.e.* Second Rule of the Penitents, now defined as the Rule of the Third Order of St. Francis. The Claresses were the Second Order of St. Francis, and were distinguished from the Regular Female Tertiaries by the designation *Clarissae Primae Regulae*—that is, of the First Rule given to St. Clare by St. Francis, and modified by Urban IV. after her death.

[5] There was a College of male Tertiaries in Perugia before Angelina inaugurated the regular sisterhood.

munities was a *Ministra Generalis*, elected annually by the *Ministrae*, and for some time she enjoyed the right of visitation and correction.[1] To her discretion were referred the examination and admission of novices for a probationary period; but their admission to the Order depended upon the decision of the simple *Ministrae*[2] and the majority of the discreet Sisters.[3] In enjoyment of the right of association,[4] the propaganda of Angelina was attended with immediate success, and soon spread beyond the boundaries of Italy, as if to supplement the Observatine revival in which it had its origin. The question of autonomy at once became one of the first importance in ecclesiastical politics. Five months after the *Ministra Generalis* had been empowered to visit and correct (1428) the Sisters who voluntarily came under her jurisdiction, the Conventual Franciscans, under Antonio de Massa,[5] successfully demanded the restitution of their jurisdiction, on account of the scandals, errors and heresies resulting from indiscriminate liberty.[6] Thirteen years later, the Observatines secured a share of this control;[7] and Sixtus IV., in reply to an Observatine petition, granted jurisdiction over the whole Third Order, the Franciscans being bound to appoint a Conventual or Observatine Visitor in accordance with the request of the Tertiary Provincial Chapters.[8] Thereafter, in spite of a certain intermittent and local resistance to this jurisdiction,[9] the Observatines appear as the vigilant correctors of the Grey Sisters; and, in the Bulls of Erection granted to their houses, Observatine control was all but uniformly provided for. Their idea of conventual discipline[10]

[1] *Sacrae religionis*, 19th August 1428.

[2] Also called *Abbatissae* and *Priorissae*.

[3] *Statutes*, *A. M.*, XI. 382–89, incorporated in *Sedis Apostolicae*, 15th January 1439.

[4] *Facere congregationem*, reaffirmed by Eugenius IV. in *Apostolicae Sedis*, 2nd May 1440.

[5] *Vide* his attitude towards the Observatines, at pp. 48–49.

[6] *Licet inter cetera*, 9th December 1428.

[7] *Sedis Apostolicae*, 2nd May 1443.

[8] *Romani Pontificis*, 15th December 1471. The Provincial Chapter referred to was doubtless that of the regular Tertiaries.

[9] *e.g. Nuper per*, 12th March 1516; *Cum alias*, 11th April 1524; *Exponi nobis*, 1st October 1537.

[10] Cf. pp. 262–63.

in this respect was finally expressed in the decision of their Chapter General to confine to their settlements, after the custom of the Claresses, the Sisters who lived in common under solemn vows.[1]

The regular sisterhood appeared in Scotland about the year 1486, and the first settlement was established at Aberdour in Fife. By his own consent, and that of his Superior, the Augustinian Abbot of Inchcolm, the Sisters superseded the Vicar of the parish in the management of a hospital previously founded for the support, maintenance and entertainment of poor pilgrims and wayfarers who visited a holy well situated south of the village of Easter Aberdour.[2] This foundation was the gift of James, first Earl of Morton, who had mortified to God and St. Martha by the hand of Vicar John Scott an acre of ground at the east of the town, on the north side of the road leading to Kinghorn, for the erection of the Hospital of St. Martha and of a free manse for the Vicar, to whom its administration was entrusted.[3] Five years later, the Earl mortified for the support of the Hospital three other acres of his lands then in the occupation of certain tenants,[4] and directed, as a condition of residence, that the pilgrims should assemble daily in the chapel of the Hospital and there repeat on bended knee after the stroke of noon five Pater Nosters and five Ave Marias.[5] This charitable institution had been founded at the request of Vicar Scott "for the necessities and use of poor contemplatives"; but for some

[1] Homologated by Julius III., *Cum sicut accepimus*, 11th October 1553, and by the Council of Trent. Leo X. (*Dudum fel.*, 27th May 1517, and *Dilectae*, 31st August 1517) had accorded the Sisters all the privileges of the Claresses—*inter alia* exemption from Tenths—and recognised them as *verae religiosae* in right of all the spiritual privileges of the Friars Minor.

[2] The well was drained into the little stream called the Dour nearly seventy years ago, when the neighbouring ground was feued by the Earl of Morton to form the short street known as Home Park. Its site is now covered by a few steps leading from the garden behind the house, No. 1.

[3] Charter of Foundation, 22nd July 1474: *Reg. Honoris de Morton*, II. 235–38 (Bann. Club).

[4] His right of Courts, civil and criminal, over the inhabitants and occupiers of these acres was expressly reserved.

[5] Second Charter of Foundation, 1st September 1479; *Reg. Honoris de Morton*, II. 238–40. The startling provision concerning observance of the moral code by the inmates was doubtless motived by the prevailing standard of morality.

unknown reason the donation "did not chance to take effect and be prosecuted as it was granted and ordained." Accordingly, the Earl re-possessed himself of the lands; and, with a further endowment of four adjacent acres of his lands of Inchmartyne, he placed the Hospital under the charge of Isabella and Johanna Wight, Frances Henryson and Jean Dross or Dirsse, Sisters of the regular Third Order of St. Francis, by a third charter dated 16th October 1486.[1] The nunnery with its church and buildings stood on a piece of ground lying on the north side of the main street of Easter Aberdour, and its site is now occupied by a building known as the Old Manse. The Sisterlands—still known under that name—extended northwards, while in the present garden wall many of the stones of the nunnery buildings can be identified. In accordance with the constitution governing the acceptance of friaries by the First and Second Orders, these Grey Sisters, through the Bishop of Dunkeld,[2] petitioned Innocent VIII. to grant the customary Bull of Erection. This was readily granted on 23rd June of the following year, but under conditions which implied a radical modification of the Earl's charitable intentions:—

> "Innocent, Bishop, etc. to our venerable brother, the Bishop of Dunkeld, and to our beloved sons, the Abbot of the Monastery of St. Columba, in the diocese of Dunkeld, and the Archdeacon of the Church of Dunkeld, greeting. Of all the works most agreeable to the Divine Will we esteem not the least the founding of a convent in which circumspect virgins with kindled lamps go forth to meet their bridegroom, Christ, and present to Him their dutiful and thankful service, wherein, moreover, the Most High may be adored with heavenly praises, and, by the merits of a sinless life, the glory of everlasting felicity may be acquired. Wherefore, we do willingly yield to the pious prayers of devout persons who desire to found such convents, and do advance such designs with opportune favours; and, moreover, when it shall be declared that these purposes have been prudently accomplished, and we are entreated thereto, we ordain that they shall be fortified by our authority.
>
> Whereas a petition has been presented to us on behalf of our

[1] *Reg. Honoris de Morton*, II. 240–42. Printed *infra*, II. pp. 267–70. Special provision was made that the road on the south side of the original acre should never be removed, and that its width should not be less than sixteen ells.

[2] The Bishop of the diocese.

beloved daughters in Christ, Isabella and Jean Wucht (Wight), Frances Innes and Jean Dirsse, Sisters of the Third Order of the blessed Francis, called of Penitence, showing that our beloved son John Scot, Canon of the Monastery of Inchcolm, of the Order of Saint Augustine in the diocese of Dunkeld, Rector or Master and founder of the Hospital of the Poor of the Blessed Virgin Martha near the town of Aberdour in the said diocese, and—wisely considering that, if sisters of the said Third Order were introduced into the kingdom of Scotland, where hitherto they have not been, then the women of the said kingdom would be able, under the regulations and institutions of the said Third Order, to devote themselves to works well-pleasing to Heaven, and would find opportunity and convenience for consulting the salvation of their souls—has—with consent of a noble man, James, Earl of Morton, by whom the said Hospital was endowed with a garden and lands which were mortified by the then King of Scots[1]—given and granted the foresaid Hospital, with its chapel, gardens, fields, rights, goods and all its pertinents to the beforementioned sisters for themselves and other sisters of the said Third Order who may wish for the time to dwell there, for their perpetual use and habitation, as is said to be more fully contained in certain public instruments and authentic documents. Wherefore, on behalf of the aforesaid sisters, humble supplication has been made to us that of our Apostolic grace we would deign to add the strength of our confirmation to this grant, donation and mortification for their more sure possession thereof, and otherwise make suitable provision herein.

We, therefore, who joyfully behold such laudable deeds and interpose our earnest care that they may have their desired effect, not having sure information as to the premises, yet well disposed towards such supplications—and absolving the said Isabella (and Johanna) Wucht and Jean Dirsse and Frances, and each of them, from all and every sentence of excommunication, suspension and interdict, and other ecclesiastical sentences, censures and penalties, inflicted either at public or private instance, on whatsoever occasion or for whatsoever cause, if so be that they are entangled or ensnared therewith, to the effect that at least these shall not prevent giving effect to these presents, deeming them to be absolved therefrom, and holding as expressed in these presents the tenor of these instruments and documents—by our Apostolic writings ordain your wisdoms that you, or two or one of you, having cited the said Canon and Earl, the Syndic of the poor in these parts and any others who ought to be cited, do lawfully convene upon the premises, and, without prejudice to any one, by our authority approve and confirm the aforesaid grant, donation and mortification, and so far as these are concerned all and sundry things contained in the said instruments and documents and whatsoever may have followed thereupon, and that you supply all and sundry defects therein if any shall happen to have intervened; and that *you, by our authority, altogether and utterly suppress and*

[1] Not recorded in *Reg. Mag. Sig.*

extinguish in the said hospital the name and title of hospital and all the rights of a hospital; and this extinction and suppression having been effected by you, that you bestow, grant, and give in perpetuity to the sisters aforementioned and to their foresaid Order, for themselves and other sisters of the said Order who may wish to dwell therein for the time, the structures and buildings of the said hospital with its chapel, gardens, fields and other goods aforesaid, as also the power of altering the foresaid structures and buildings and of enlarging the same with dormitory, refectory and cloister, *after the pattern of other houses of the sisters of the said Third Order in the countries of France and Flanders*; and that by the said authority you appoint the said Isabella, while she lives, to be *Mistress* of the said house and of the foresaid and other sisters of the house for the time; also that by our authority you ordain the said house and its mistress and sisters for the time *to be under the care, direction, control and discipline of the Vicar of the Friars of the province of Scotland, called the Order of Friars Minor of Observance*, who shall be in office for the time; and that you by the same authority require the said Vicar to provide a competent confessor to the said mistress and sisters who shall direct and instruct them how they ought to employ themselves in works acceptable to God; as also that the said Vicar do truly exercise his authority and office towards the foresaid house and its mistress for the time and the sisters, and do all those things which ought to be done in the same way as similar Vicars discharge their functions to the like houses and their mistresses and sisters committed to their care; and the said Isabella, or the mistress of the said house for the time, dying or surrendering her position in the said house into the hands of the sisters thereof, that one of the sisters of the said house, whom the other sisters who shall belong to it at the time, or the major and sounder part of them, shall choose to be elected according to the rules of the said Third Order, shall become mistress of the said house for her lifetime; and, when she shall have obtained confirmation of her election by the aforesaid Vicar, she shall have liberty to discharge her office with that free administration, pre-eminence, authority and superiority, and with power also of correcting the sisters in the said house, which the mistresses of similar houses in the kingdom of France and province of Flanders exercise; and that the said Isabella, and the mistress for the time therein, with the sisters of the said house, shall constitute a convent with a common treasury or purse, and with a seal and other conventual insignia, and *they shall not be prohibited from having their own property both in common and in particular*. Moreover, it shall be lawful to the said Isabella, and to the Mistress of the said house for the time, to receive among the sisters maidens and other women, who, fleeing from the world, desire under the appointed rules of the said Third Order to serve the Most High, and to present to them the regular dress according to the custom of the said Third Order, and to allow them to make the regular profession usually made by the sisters thereof, if they are freely willing to

make the same in presence of the said Isabella and the mistress of the said house for the time being; and it shall be lawful both to the said mistress, and, by her permission, to the sisters living for the time in the said house, to *retain and instruct therein young maidens of honourable parentage and willing to be instructed in literature and good arts.* Further, if the said Vicar refuse to visit them and to confirm the election of the Mistress, then the Ordinary of the place ought by apostolic authority to confirm this election, if it be canonical. These things by our authority do ye statute and ordain, and place the said house, its mistress and sisters, in peaceful possession and enjoyment of this grant, statute and ordinance, and of the privileges and favours thus conferred upon them. Contradictors, etc. Given at Saint Peter's at Rome on 23rd June 1487, in the third year of our pontificate."[1]

Notwithstanding this arbitrary injunction to extinguish the name of Hospital, these Tertiary Sisters at once became known as the Sisters of St. Martha of Aberdour; and it is highly improbable that they varied the express conditions of the charter without their patron's consent. The Sisters of Campvere, we know, won the recognition of James IV. by their kindly services to invalid Scotsmen in their town, and it may be doubted whether the maidens of noble lineage ever acquired any knowledge of literature and the fine arts from teachers who were unable to sign their own names. At least, on 18th August 1560, the four sisters,[2] who granted two Feu Charters of their nunnery and acres to the descendant of their founder, required the assistance of a notary to guide their hands at the pen. With his accustomed generosity towards the Franciscans, James IV. made an annual allowance of £10 from the customs of Inverkeithing to the chaplain of the nunnery;[3] and the sisters themselves shared in the royal bounty to the extent of four bolls of wheat and four bolls of barley, supplemented by occasional donations from the royal purse varying in value from 14s. to £5.[4]

The second and last nunnery of Grey Sisters of Penitence in this country was founded at Dundee by James Fothering-

[1] Theiner, *Mon. Vet. Hib. et Scot.*, p. 500.

[2] Mother Agnes Wrycht, and Sisters Elizabeth Trumball, Margaret Crummy and Cristina Cornawell.

[3] Mother Isabella (Wight) granted the receipts for this allowance. *Exch. Rolls*, 1489.

[4] Originally two bolls of each grain. Summaries, *infra*, pp. 397–98.

ham in 1502.[1] The charter of this burgess transferred to the religious sisters, Janet Blare and Mariota Oliphant, his chapel founded in honour of St. James the Apostle and his adjacent croft beside the Argylgate, long after known as the "Grey Sisters' Acre." The boundaries of this area were the arable land of William Blare on the west, the highways on the north and south, and the burgh common on the east; while the purpose of the charter was simply defined as the intention to provide a "perpetual place" for the said religious sisters and their successors, who shall dwell therein and celebrate divine services. In return, they were directed to pray for their patron's parents after the daily mass and again after vespers, and to repeat the psalm *De profundis*, with the three collects *Pietate tua Deus*, *Qui patrem et matrem*, and *Fidelium Deus omnium*; while the *placebo* and *dirige* were to be recited twice in the year after his death and that of his wife, Isabella Spalding. At this date the Tertiary rights of burial were undefined,[2] and Fotheringham stipulated that, if he were buried within the nunnery, these services should be performed by the chaplain over his tomb, with sprinkling of holy water after the mass on Christmas and on the anniversary of his death. The Conventual Franciscans of Dundee would naturally delegate one of their number to act as chaplain, and it is of further interest to observe that the magistrates gave their consent to the charter, which empowered them to supersede any sisters who "fell away from the perfection and rule of their profession or lapsed into a wicked and suspected manner of living."[3]

From this date until the Reformation, the personality of the sisters in both nunneries, their inner life and the extent of their work among the poor, is shrouded in an impenetrable

[1] *Charter of Donation*, 8th March 1501–2; Original, preserved in the Chartulary of Fingask, incorporated in Charter of Confirmation by James IV., 31st March 1502; *MS. Reg. Mag. Sig.*, XIII. No. 500; *infra*, II. p. 273.

[2] The fifth Lateran Council reaffirmed the right of Tertiaries living in the world to select burial where they pleased; and, as already stated, the regular Sisters were accorded all the privileges of the Friars Minor and Claresses in 1517.

[3] *Vide* analogous, but no doubt equally illusory, control over the Friars Minor, *supra*, p. 231. These sisters did not receive an allowance from the Exchequer; but they may have been intended as the recipients of the gifts entered in the *Treasurer's Accounts*, to the "Gray Sisteris."

cloud of anonymity. When their mission was brought to a close in the month of August 1560, those of Dundee were immediately dispossessed of their house by the magistrates, who sold its stone and lime to one John Brown for 16 merks and 10s., and leased the croft at an annual rent of 28s.[1] At the same period, under two charters granted by the Mother and Sisters of Aberdour, the Earl of Morton secured possession of the eight acres mortified to them by his ancestor. This Sisterland was to be held by him in feu from the nunnery Chapter at a duty of 6s. 8d. per acre, with 6s. 8d. for the house and yards; and, keeping in view the liferent provision granted to recanting friars and sisters, there is every probability that this payment remained in abeyance until the death of the last sister, when the then Earl necessarily entered with the Crown.[2] With his consent the sisters enjoyed the liferent of their glebe; and, from a lease of the lands, at a rent of eleven bolls of bear and the same quantity of meal, which was recorded for execution on 29th January 1584,[3] we may presume that the last sister was Margaret Talliefer, who, as "liferenter of the Sisteris land of Aberdour," had entered into the bonds of wedlock with Master Robert Young, the local notary.

ROYAL BOUNTIES TO THE GREY SISTERS OF ABERDOUR

I. Exchequer Rolls

1489. By payment made to the Chaplain celebrating in the House of St. Martha of Aberdour, receiving annually ten pounds from the Great Customs of the said Burgh (Inverkeithing) in alms, Isabella, the Mother of the said sisters, by her letters granting receipt. It is to be remembered that Thomas Forest, Keeper of the Accounts, received from John Story, as the custom duty of a sack of twelve stones of wool, one hundred skins with the wool on them, and two hundred skins of the said shearlings, the sum of five merks for the past year, which the said Thomas accounts for by having paid over that sum to the Sisters of the Order of Saint Martha of Aberdour, and so accounts balance as to these five merks.

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[1] *MS. Accounts, Collector-General*, 1561, *et seq.*

[2] Original in the Morton Chartulary. Abbreviate recorded f. 194, *MS. Abbrev. Cartar Feudifirme Terrar. Ecclesiasticar. Infra*, II. p. 270.

[3] *MS. Books of Council and Session*, G. R. H.; *infra*, II. p. 271.

1493. Of the fine of £10, in which Alexander Wittimwr was adjudicated, as appears in said extract, granted by the King to the Sisters of St. Martha in alms. . . .

1494. Certain payments of which there are of barley for fragments to the fowls, and to the Grey Sisters two chalders, eleven bolls, one firlot, two pecks of barley, the residue of the malt. . . .

Payments of a victual allowance of wheat and barley from the Customs of Fife, increased in 1499 from two to four bolls of each grain, appear in the Rolls of 1494, and in those of each year between 1497–99, 1501–10, 1512–14, 1516–21, 1523–32, 1534, 1536, 1539–43.

II. Treasurer's Accounts

1488, 18th July. To the Gray Sisters of Abirdour at the Kingis command, £2.

1489, 3rd May. To the Gray Sisters at the Kingis command, £2, 10s.

1501, 28th March. To the Gray Sisteris be the Kingis command, 3 Franch crounis, summa £2, 2s.

1502, 26th April. To the Gray Sisteris in almous be the Kingis command, £2.

1503, 3rd February. In Edinburgh to the Gray Sisteris, be the Kingis command, £2, 2s.

1503, 8th September. To the Gray Sisteris that day be the Kingis command, 14s.

1504, 26th November. To the Gray Sisters be the Kingis command, 14s.

1513, 15th May. To the Gray Sisteris be the Kingis command, £5.

RECORDS OF THE HAMMERMEN OF EDINBURGH[1]

The expensis maid on ane corpalain—

1512. For ane qr. of Bruges Satin, 3s. 6d.
„ Reid silk, 16d.
„ ane hank of gold, 3s.
„ ye burdis of it, 2s.
„ ane qr. and half qr. fustam, 12d.
„ ane ely of lynin clait to lyn it and to be ane pok to it, 12d.
„ given to ye Gray Sisteris in pairt of payment for yair labours orn the making yrof, 20d.

Extending to 13cr. 6d.

[1] John Smith, *The Hammermen of Edinburgh*, p. 52.

CHAPTER XI

THE PASTORAL DUTIES OF THE FRIARS

Preaching, Confession, and Burial

The decadence of the Church in the opening years of the thirteenth century has received frequent and vivid illustration in the unmeasured condemnation of the secular clergy and of their regular or monkish brethren. The note of contrast in these lurid pictures is the general expression of admiration for the ameliorative influence introduced by the Mendicant Orders. Sincerity of profession and a desire to restore the original spirit of religion, coupled with extreme simplicity and austerity of life, were the earnest of a return to the golden age of Christianity, in so far as the character of its ministers was concerned.

In the initial stages of its development the Franciscan movement was unhampered by formalism or the traditional discipline of the Church; and it was, therefore, something so strangely new that few of its contemporaries, beyond the immediate entourage of the Holy See, could understand its meaning, or assimilate it to the existing order of things. Its Rule was the first in the history of the Church which recognised preaching as the principal duty of those who owed obedience to it; and the appointment of its preachers was *sui generis*, if not anomalous. The approval of Innocent III. was verbal, but provisional; while the exposition of the gospel by laymen, and, at a later date, the hearing of confession by their ordained associates, produced an immediate collision between the voluntary and the professional clergy. Thus introduced into the arena of Church politics in a manner entirely at variance with ecclesiastical tradition and discipline, the friars were not recognised by their contemporaries in the

second decade of the century as members of an Order within the Church; and so distrust, pride of caste, and jealousy born of privilege, were combined in the refusal of the Seculars and Regulars to accept co-operation in their work, at a time when the more clear sighted among them recognised that the evils resulting from insufficiency of workers were not unfrequently aggravated by inefficiency. Nevertheless, the verbal approval of Innocent III. constituted the mandate of the Franciscans—*qua religiosi*—to preach penitence to all; and their leader directed them to execute it with humility. He forbade them to preach without the consent of the clergy;[1] and, as if to accentuate this humility and passive spirit on the part of his "Minors," he further insisted that license to preach should be given voluntarily, and not in obedience to any command by the Pope. Hence, so long as he maintained his naïve attitude of independent submission towards the Holy See, the "Divine Mendicant" persistently refused to have the tentative confirmation defined by the issue of a privilege that would empower the friar preacher to disregard the veto of the bishop within his diocese.[2] Obedience to the letter, or to the spirit of this command, made the expansion and development of the Order dependent upon the goodwill of the churchmen;[3] but St. Francis confidently predicted that the prelates would eventually invite the friars to share in the work of the parish and diocese.[4] As the realisation of this millennium

[1] *Solet annuere*, cap. IX.: *Spec. Perf.*, caps. 54 and 87. The Rule of 1221 prepared by St. Francis contained this injunction: "*Nullus fratrum predicet contra forman et institutionem Sanctae Ecclesiae nisi concessum fuerit sibi a suo ministro.*" Cap. 17, Die Regel von 1221, p. 197, *Die Anfänge des Minoritenordens*, von Dr. Karl Müller, 1885. Cf. *La Vie de St. François*, p. 101, for the authority of this reconstituted text.

[2] The true feelings of St. Francis in regard to this dual sanction were illustrated in the case of the friar who received license to preach in Lombardy—*auctoritate apostolica.* He called for a knife, cut the instrument to pieces, and threw it into the fire. *Spec. Perf.*, p. 87, note 25–35.

[3] Friar Bonaventura's disapproval of this idealism is thus succinctly expressed: "*Si enim nunquam deberemus morari nisi de voluntate clericorum vix unquam in ecclesia possemus diu morari dum aut per se aut incitati per alios ejicerent nos de parochiis suis potius quam hereticos vel Judaeos.*" *Bonaventurae Op.*, VIII. 365, Opusc. XIII.; Ed. ad Claras Aquas, 10 Vols., 1892–1900.

[4] *Spec. Perf.*, cap. 50. *Vide* incident in which St. Francis illustrated the ideal attitude of a Franciscan towards the prelates of the Church. *La Vie de St. François*, p. 196.

depended upon the conversion of the prelates through the humility and obedience of the friars, his friends and sympathisers not unnaturally looked upon it as the dream of an idealist. The Cardinal of Ostia pointed out that no effort would be spared to prejudice the progress of his Order in the Papal Curia; and his associates appealed to the actual facts, maintaining that the persistent refusal of the churchmen to permit them to preach afforded a sufficient reason for obtaining a definite privilege. Indeed, the reception which the friars met with, when the movement spread beyond the country of its birth, could have left but little doubt in the minds of practical men that a serious struggle was imminent. Local authority and influence enabled the churchmen to expel their unwelcome auxiliaries from the diocese, and to discredit them as heretics or "doubtful Catholics,"[1] like the earlier propagandists who had attracted attention by the profession of poverty as a rule of life. It must not, however, be supposed that the friars received so unkind a welcome from every Bishop or Rector; but among a body of men, the majority of whom had long since ceased to be animated by a similar devout spirit in the discharge of their duties, it is almost natural to find that there were many who misunderstood the motives of the friars or deliberately discredited them. In short, the ideals of the Mendicants and the Seculars were so diametrically opposed, that these two classes could not develop harmoniously within the same organisation; and the rulers of the Church in the thirteenth century were thus confronted with a problem for which there were three possible solutions — repression, substitution or unification. Repression meant a further increase of heresy at a time when the current heresies were a serious menace to the unity of the Church; whereas the new movement presented itself as a providential means wherewith to combat them. Substitution of the new for the old over the whole of Europe was beyond the power of any single authority,

[1] The report of the transalpine friars to the Chapter General of 1219 was, "*Se durius in multis locis receptos quod authenticas nullas, quibus suam vitam institutumque ab Ecclesia fuisse ratum probarent, literas non haberent: nec propterea ab ecclesiarum rectoribus ad verbi divini ministerium admittebantur.*" Germany, 1217–18. *B. F.*, I. 5; *La Vie de St. François*, p. 253.

but it did not pass unconsidered.[1] Unification, through a compromise that did not mutilate the main ideas and characteristics of the new principles, at least promised a composite basis for future development; while assimilation avoided an abrupt rupture with tradition.

Thus, the idealism of St. Francis, like all great revolutionary projects, whether constructive or destructive, yielded to compromise. But as the leader of a great movement, if not as an idealist, he had one great advantage—the ruling hierarchy of the Church was in full sympathy with his ideas. It desired nothing better than to harmonise them with those which rested upon tradition, to graft his Order upon the body of the Church, as it then existed, and to foster its development as an immense ameliorative influence. Critics are not wanting who have regretted the deviation from the original simplicity of the Franciscan fraternity, the influence exercised over its development by the Holy See, and the conditions attached to the incorporation of the Order within the Church. Nevertheless, the primary duty of the Holy See was to consider the future of the institution which embodied the new ideas, and the means by which they might be preserved, rather than the exquisite susceptibilities of a striking but bewildering personality. If it had consented to assume the rôle of a mere spectator in the progress of the development of the Order into an independent religious institution, under conditions identical in doctrine but differential in discipline, the danger of schism would have been increased, and the bitterness of the controversy following upon the rise of the Mendicants still further accentuated. The Franciscan Order could not, then as now, be admitted into the Church hegemony in the full beauty of its spontaneity, marred by a relative disorder. Yet, the condition attached by the Papacy to its recognition was far from being a repressive one. It was not demanded of the friars in 1219, that they should abandon the beautiful ideas of their founder. It was sufficient to put order in their midst, and conform in a reasonable degree to the ecclesiastical customs of their time. The manner in which this should be effected constituted the

[1] *Spec. Perf.*, cap. 43.

point of difference between St. Francis and the rulers of the Church. The decision of Honorius III. and his advisers was that of men experienced in administration; while the griefs of the Saint, and the consequent reproaches levelled against the Holy See, were due to the fact that he was so wrapped up in the excellence of his profession as to be wholly unable to appreciate the most certain and practical means of effecting the co-ordination that he so earnestly desired. In brief, the Papacy desired to direct orderly development; while St. Francis, in the belief that all men would view religion from his standpoint, pleaded for natural and untrammelled expansion.

From this date, the general policy of the Holy See was to secure harmonious co-operation by the Secular and Mendicant clergy in the work of the Church. The services of the Franciscans were voluntary and disinterested; so that it was easy to respect the vested interests of the Seculars, and to insist, with complete reason, that they should respect the right of the friars to take part in the purely pastoral work of the parish. Under the compromise which was ultimately effected, the parochial clergy were denied all monopoly in so far as efficient ministration was concerned; while the semi-civil functions were strictly reserved to them. The friars thus became privileged to preach, to hear confession, and to bury laymen in the friary cemetery; but they were precluded from dispensing the sacrament of marriage or that of baptism, except in the extreme case of imminent death. There were, indeed, many steps between the issue of the "explicit approbation" of the Franciscans and the re-issue of the *Super cathedram*, under which, after a century of keen and often bitter controversy, a reluctant respect for the legitimate development of the Mendicants was wrung from the parochial clergy and their superiors.

The consideration of this controversy falls naturally under three heads—the right of the friars to preach and to hear confession, the privilege of burying members of the Order and laymen within the friary cemetery, and their disabilities in relation to the sacraments of marriage and baptism. The mandate of St. Francis to his followers received Apostolic con-

firmation in 1210;[1] and five years later the fourth Lateran Council, recognising that there was a dearth of preachers in the Church, provided for the appointment of suitable men in the cathedrals and convent churches[2] under license from the bishop of the diocese. In 1219, after St. Francis had abandoned his attitude of qualified submission towards the Holy See, Honorius III. issued letters in which he commended the friars to the prelates as preachers, and stated that they had chosen a form of life approved by the Roman Church.[3] The unmerited reproach of heresy or doubtful doctrine could, therefore, no longer be directed against them, and the requisite degree of conformity with the other Orders was established by the issue of the Rule for the Friars Minor in 1223,[4] following upon an earlier provision for a noviciate of one year.[5] This Rule differed from the prior Rule only in the formality[6] with which it surrounded the appointment of a friar to the office of preacher, who was now to be appointed by the Minister General in open Chapter after due examination.[7]

Following upon the rapid expansion of the Order, this centralisation was quickly found to be inconvenient, and Gregory IX., after refusing to sanction the remedy suggested by the Order in 1230,[8] delegated the examination and appointment of preachers to the Provincial Ministers and their Chapters in 1240.[9] At the same time the canon of the General Council, and the attitude desiderated by St. Francis, were also complied with, by a restatement of the declaration that no friar should preach in any diocese where the bishop withheld his consent.[10] The bishop thus occupied a position

[1] *La Vie de St. François*, p. 100, note.

[2] Labré, *Collectio S. C.*, XXII. 998, cap. 10; 1125, cap. 50.

[3] *Cum dilecti filii*, 11th June 1219. Called by M. Paul Sabatier "the explicit approbation of the Franciscans."

[4] *Solet annuere*, 29th November 1223.

[5] *Cum secundum*, 22nd September 1220.

[6] Cap. 17 of prior Rule. "*Et nullus minister vel predicator appropriet sibi ministerium vel officium praedicationis.*" *Die Anfänge, ut supra.*

[7] *Solet annuere*, cap. 9.

[8] *Quo elongati*, 28th September 1230; *infra*, II. p. 399.

[9] *Prohibente regula vestra*, 12th December 1240. Re-issued by Innocent IV., 30th October 1243 and 23rd July 1244; Alexander IV., 20th January 1257; Nicolas III., *Exiit qui seminat*, cap. 17; Martin IV., *Ad fructus uberes*, 10th January 1282.

[10] *Solet annuere*, cap. 9. The Dominican Statutes of 1228, however, provided

of responsibility midway between the broad views of the central authority and parochial prejudice or jealousy. It lay within his power to neutralise the privilege, or to surround it with conditions; but, if he did grant a license to the friar preacher, the parish clergy had no right to interfere. This secondary control was amply justified by the unfriendly attitude of the parish rectors, and by the arbitrary manner in which they made use of the sentence of excommunication to enforce obedience to their "frivolous or sinister interpretation" of the episcopal license.[1] Honorius III. condemned this attitude in no measured terms. His successor re-issued the privilege of celebrating mass and other divine offices in Franciscan oratories,[2] directed the bishops to permit the friars to expound the Word of God freely in their parishes, and to show them favour when they had oratories within the diocese.[3] In 1234, a second letter of recommendation was addressed to the prelates, urging them to extend a kind and charitable welcome to the friar preacher;[4] and three years later, this command was re-issued in a more distinct form, supplemented by the first explicit recognition of the right of the Franciscans to hear the confessions of laymen.[5] In this constitution, the prelates were directed to assist the friars in procuring license to preach, to exhort their parishioners to provide for the needs of the friars, and to place no impediment in the way of their listening to the sermons of the Franciscans, seeing that they could also confess to the priests of that Order. The correlative duty imposed upon the Mendicants, in the interests of amicable co-operation, was to respect the emoluments of the clergy, to use their influence to secure prompt payment to them, and to avoid the

"*predicare non audeat aliquis in diocesi alicuius episcopi, qui ei ne predicet interdixit,* NISI *literas et generale mandatum habeat summi pontificis.*" *Archiv für Litteratur*, I. 224.

[1] *In his quae*, 28th August 1225, Honorius III. so described their contention that the license to preach within the diocese did not confer the right to preach in any particular church.

[2] *Quia populares*, 3rd December 1224; re-issued 4th May 1227 and 22nd April 1235.

[3] *Si Ordinis*, 1st February 1230.

[4] *Cum qui recipit*, 12th June 1234.

[5] *Quoniam abundavit*, 6th April 1237.

use of such arguments in their sermons as would induce their listeners to withhold tithes or other payments customarily made to the Church.[1] From and after the issue of the *Quoniam abundavit*, preaching and confession formed a distinct element in the controversy, being considered as two complementary and inseparable duties, linked together as cause and effect.[2]

In early practice, the hearing of confession had been distinct from preaching, or at least entirely subordinated to it, in the sense that it was a deviation from the intentions of St. Francis. In 1237, however, his followers had ceased to occupy an anomalous position in the Church. The number of ordained priests within the Order had greatly increased, and the Papacy had amply recognised its members as churchmen in relation to the celebration of the divine offices.[3] Laymen had also given convincing proof of appreciation for their work, and of a desire to resort to them for spiritual guidance; while the partisan spirit had insensibly influenced the Order in its expansion. On the other hand, the hearing of confession was a more serious attack upon the monopoly of the parish priests, and therefore met with more stubborn resistance. The secular and regular priest maintained that confession to a friar was of no avail, and supported his contention by an appeal to the canon of the General Council, which provided that every parishioner must confess to his own priest once in each year, and that he could receive neither penance nor valid absolution from another priest without the consent of his own priest.[4] This interpretation of the section, that had been passed during the infancy of the Mendicant movement, led the Seculars into varying

[1] Gregory IX., *Discretioni vestrae*, n.d. They were directed to exert a similar influence in the confessional and at the sick-bed. *Summus Orbis opifex*, 6th December 1249.

[2] "*Predicare est seminare, sed confessiones audire est fructum metere. Stultus est ergo qui libenter seminat et fructum colligere non curat*"; *Regula Fratrum Minorum*, p. 162, R. P. Hilarius, 1876. "*Inanis est separatio*"; *Bonaventurae Op.*, VIII. 429; *Expositio*, cap. IX. § 6.

[3] *Quia populares*, 3rd December 1224.

[4] Lateran Council, 1215, cap. 21; Labré, *Collectio S. C.*, XXII. 1007. In the Council of Toulouse, 1229, the minimum number of confessions, *sacerdoti proprio*, was increased to three. *Ibid.* XXIII. 198.

degrees of inconsistency. The "strict minimum" was held to mean the general practice, and, therefore, to preclude all freedom of choice. This contention in turn contradicted one of the principles of confession in the Roman Church, that an ordained priest who is in a state of grace—which the Seculars denied in regard to the friar priests—may always hear confession and grant absolution in accordance with the discipline of the Church. It further brought them into an unequal conflict with the general policy of the Holy See in relation to the Mendicants, and also with the principles of infallibility upon which that policy was founded. This last phase was summarily dealt with by John XXII. so late as 1321, when he condemned the false and erroneous propositions of John de Polliaco, who maintained that confession to a Franciscan did not remove the necessity of confession to the parish priest, thereby implying that the Holy See could not vary a canon of the General Council.[1]

In the early history of confession among the Franciscans, there was a marked distinction between the confession of members of the Order and the confession of laymen. The first Rule required the friars, whether clerics or laymen, to confess their sins "to the priests of our Religion."[2] If unable to do so, they were to confess to other discreet and catholic priests, and, in the last resort, to one another.[3] The Rule of 1223 was textually less definite than the reconstituted text of the prior Rule; but there can be no doubt that chapter seven presupposed the custom of confession by the friars to priests of the Order, and merely provided for a special case. It was to the effect that the Provincial Ministers, who were not themselves priests and therefore unable to grant absolution in accordance with the statutes, should direct the priests

[1] *Vas electionis*, 24th July 1321.

[2] Although he was not an ordained priest, St. Francis absolved a friar from making complete disclosure in the confessional—"but by my leave say thou seven Pater Nosters so often as thou shalt be in tribulation." *Spec. Perf.*, cap. 106.

[3] Cap. 20, Die Regel von 1221, p. 199, *Anfänge des Minoritenordens*. At this date there were few ordained priests in the Order. There was an insufficient number in the German mission, and a novice heard the confession of his brethren until Caesarius remedied the insufficiency by promoting three of their number to the priesthood in 1223. (*Chronica Fratris Jordani*; *A. F.*, I. 11.)

of the Order to impose penance for certain mortal sins.[1] Gregory IX. provided for the appointment of friar priests in every convent for the purposes of ordinary confession,[2] and Innocent IV. granted the Provincials power to delegate to the "Custodes" and other discreet friar priests the power to hear confessions governed by chapter seven of the Rule.[3] In 1241, the Superiors of the Order received authority to absolve their subordinates from church censures, "after the form in which the Holy See had authorised Archbishops and Bishops";[4] and the system of confession within the Order was completed by a statute passed in the Chapter General, and approved of by the Holy See,[5] strictly forbidding confession to anyone who was not a superior or priest of the Order, except in cases of urgent necessity. St. Bonaventura warned the friars against extraneous confession and the revelation of anything that might discredit the fraternity, on the ground that a priest of the Order was better acquainted with the Rule and the suitable correction.[6] The Secular clergy, not unnaturally, declined to accept this innovation upon their privileges,[7] and replied that the friars, as ordinary laymen, must confess to them. They were ordered to renounce this pretension by Gregory IX. in 1231,[8] and complete immunity was at length secured to the friars by the re-issue of this constitution in 1245, when the confession of laymen to Mendicant priests had become a

[1] *Solet annuere*, cap. 7.

[2] *Quo elongati*. On at least two subsequent occasions, the Chapter General (Assisi 1304 and Padua 1310) found it necessary to provide for the appointment of confessors for the friars. *Archiv für Litteratur*, III. 121; VI. 69.

[3] *Ordinem vestrum*, 14th November 1245.

[4] *Licet ad hoc*, 6th June 1241. Re-issued by Innocent IV., 26th September 1243, *et frequenter*.

[5] Alexander IV., *Virtute conspicuos*, 2nd August 1258; *infra*, II. p. 110.

[6] *Regula Fratrum Minorum* (Hilarius), p. 125. The friar priest was also the confessor of the Claresses. He administered the sacraments to the moribund sisters, and performed their funeral services. In course of time, the sisters came to demand these ministrations as a right, with the result that, in reply to a petition of the Friars Minor (1263), Urban IV. declared that the Order was in no way bound to the sisters, and absolved the friars from performing their funeral services. In 1276 they were asked to resume these ministrations "not as a duty, but out of love"; *Bonaventurae Op., Epistolae officiales*, VIII. 470; and *Chronica Glassberger, A. F.*, II. 77, 90.

[7] The Penitent was allowed to confess "*alicui sacerdoti*"; *infra*, II. p. 457.

[8] *Nimis iniqua*, 21st August 1231. Re-issued by Innocent IV., 21st July 1245.

matter of much greater importance than that of members of the Order.

St. Francis had not forbidden the priests of his Order to hear the confessions of those who resorted to them; but he had directed them to consider that as a secondary duty. Their real duties were to be those of the missionary and not of the confessor, since their converts would have no difficulty in finding confessors.[1] The practice following upon this vague injunction, until its explicit recognition by Gregory IX. in 1237, is somewhat obscure. In the chronicles, various notices occur of Bishops who received the friars kindly, and granted them license to preach and hear confession within their dioceses.[2] Eccleston describes Friar Salamon as the "Warden of London and general confessor of the whole town,"[3] and an indefinite number of friars are referred to as confessors of Churchmen and Seculars. The *Quia populares* of Honorius III. sanctioned this practice by a recognition of the friar's right to hear confession on death-bed and carry the Viaticum to the sufferer; and the question was considered by the Chapter General during the generalship of John Parens, who forbade novices to hear the confessions of laymen or churchmen.[4] It was presumably one of minor importance in the controversy at this date, as no reference was made to it in the *Nimis iniqua* of 1231; whereas, in 1239, the Synod of Cologne, presided over by the Legate Conrad, discussed the "invasion of the parishes" by the Mendicants. One Secular priest complained that the friars heard the confessions of their parishioners, ingratiated themselves with them, and thus "put the sickle into the harvest of another." The Legate elicited the reluctant admission that there were no fewer than nine thousand souls in the diocese; and he thereupon deprived the presumptuous priest of his pastoral office.[5] In 1244, Innocent IV. granted the Franciscan

[1] ... "*ipsi (prelati) rogabunt vos ut audiatis confessiones populi sui, licet de hoc non debeatis curare nam si conversi fuerint bene invenient confessores*"; *Spec. Perf.*, p. 86. Vide *supra*, p. 61.

[2] 1223, Bishop of Hildesheim and others. *A. F.*, I. 12, 10.

[3] *M. F.*, I. 12.

[4] *Archiv für Litteratur*, VI. 16 (1228 or 1230).

[5] *A. M.*, III. 25, § 13.

missionaries among the infidels a special power to preach, baptize and grant absolution.[1] Two years later, he forbade any friar who had been expelled from the Order, or who had voluntarily left it, to continue to preach, hear confession, or teach;[2] and, in 1250, the friar preacher was privileged to take part in divine service along with the other clergy, when discharging that duty in the churches of the Seculars or Regulars.[3] Innocent IV. also re-issued the *Nimis iniqua*, and appointed Conservators to protect the friars from the oppression of churchmen who persistently disregarded the privileges of the Order. The Archbishop of Canterbury and the Bishops of London and Norwich were accordingly appointed Conservators to protect the friars of England and Scotland[4] against all or any of the following abuses by the free use of church censures:—The pretension of the churchmen that the friars must confess to and receive penance from them; their refusal to permit the *Corpus Christi* to be kept in the oratory of the friary; the seizure of the alms offered to the friars; the exaction of tenths from the produce of the friary gardens on the pretext that, if the land had not been occupied by the friars, it would have been occupied by others who would have paid the tenths; the claim for the oblations given at the funeral service of a friar, and for those received at the daily mass in the friary; the refusal to allow the friars to have a consecrated cemetery, or to permit the friar priest to celebrate the first mass after his ordination anywhere except in the parish church; the petty tyrannies exercised over the friars in compelling them to attend their processions, and in restricting the hours at which they might perform divine service; and, lastly, the too frequent practice of excommunicating the benefactors of the friars, and of threatening the friars themselves, with the result

[1] *Pro zelo*, 4th October 1244. [2] *Justis petentium desideriis*, 9th Sept. 1246.

[3] *Ut absque*, 3rd December 1250.

[4] *B. F.*, I. 373–375, Nos. 9, 10. A separate Conservator was appointed for the Irish Franciscans. In England, Archbishop Peckham (1291), in the discharge of this office, directed that the friars should be allowed to hear confessions without asking the permission of the parish priest, and in his letters referred to the privileges of the Minorites "which we have to maintain." *M. F.*, II. xvi.; *The Grey Friars in Oxford*, p. 75.

that the laity were afraid to resort to them.[1] The closing years of the reign of Innocent IV. were, however, marked by a temporary reaction against this liberalism towards the Mendicants. The freedom of choice in the matter of pastors and of the place of worship, which had been indirectly conferred upon the laity, and perhaps too freely exercised by them, was curtailed by the *Etsi animarum*, which forbade the friars to receive parishioners in their oratories and churches on Sundays and Feast-days, or to preach to them on these days before and during the celebration of mass.[2] The friars were further forbidden to receive confessions or to impose penance without the permission of the parish priest; to preach, especially in the cathedral church, on the day on which the diocesan bishop was accustomed to preach; or to visit other parishes for the purpose of preaching there, unless they had been invited or had obtained permission to do so.[3] The clergy quickly utilised this reactionary constitution,[4] as an authority for the promulgation of diocesan statutes forbidding confession to any other than the parish priest;[5] and polemical writings also began to appear, professing to show that the ministrations of the Mendicants were prejudicial to the parish priest,[6] that the friars were bound to manual labour, and were not "in a state of perfection."[7] The Franciscans replied to this campaign of slander by treatises disproving these defamatory allegations, and they also procured papal condemnation of their opponents' propositions.[8] Notwithstanding, it was no easy matter to remedy the prejudicial effects of the *Innocentiana* in regard to the recognition which

[1] It need not be said that this indictment is to be understood in a general sense, and not in reference to any particular parish or diocese.

[2] *A. M.*, anno 1254, No. 2; wanting in *B. F.*; Summary in constitution, Alexander IV., *Nec insolitum est*, 22nd December 1254.

[3] Provisions *re* burial, *infra*, p. 419.

[4] Subsequently known as the *Innocentiana*.

[5] *Vehementer mirari cogimur*, 6th May 1258.

[6] *Non sine multa*, 19th October 1256.

[7] *Chronica Glassberger*, *A. F.*, II. 72, 75. This last "*libellum infamiae*" was publicly burned, and its authors deprived of their office and benefices.

[8] Friar Bertrand of Bayonne refuted the contention that the friars were bound to manual labour. *Vide infra*, pp. 420–23, 473, and the controversial writings of Bonaventura.

it had given to parochial, as distinct from episcopal, control; and for forty years it remained the basis of the obstructive interpretations of the general statutes put forward by the churchmen. During the reign of Alexander IV.[1] continuity was restored to the policy of the Holy See by the issue of a series of constitutions favourable to the Franciscans. The first was a revocation of the *Innocentiana*,[2] and it was followed by a condemnation of the prelates, with the addition of a valuable concession to the conscientious scruples of the friars —that all sentences of excommunication delivered against them or their benefactors by the prelates were void.[3] A general confirmation of the Mendicant privileges formerly granted by Gregory IX., a declaration forbidding the prelates to exact "manual obedience" from the friars, and a second revocation of the *Innocentiana*—in which the right of the friars to hear confession was reiterated—completed the papal legislation in favour of the Franciscans during the year 1255.[4] The following year was marked by a condemnation of the "errors and nefarious propositions" put forward by their detractors, and His Holiness, in reply to the alleged prejudice which they caused to the parish priest, concluded this brilliant encomium of the Mendicants by a categorical declaration that they might preach, hear confessions, and enjoin salutary penances in virtue of papal license.[5] Once more the churchmen accepted this declaration in a contentious spirit; and, in dioceses far removed from Rome,[6] they interpreted it in conjunction with the *Innocentiana* and the control which it placed in the hands of the parochial clergy. Two years later, Alexander IV. issued a detailed confirmation of the whole privileges enjoyed by the Order at this date, specifying among them that no friar could be forced to confess to a Secular

[1] Formerly Cardinal Protector of the Order.

[2] *Nec insolitum est*, 22nd December 1254.

[3] *Perlata nuper*, 24th April 1255. This privilege was put upon a logical basis by a supplementary constitution in 1260, providing that only a Legate à Latere, or Sublegate, might pass sentence of censure on the friars. *B. F.*, II. 409, No. 583, and III. 12, No. 16.

[4] *Quia ordinem*, 30th April 1255; *Inducimur piae conversationis*, 21st May 1255; *Quaedam*, 12th September 1255.

[5] *Non sine multa*, 19th October 1256.

[6] *Clergy of Paris*, *B. F.*, III. 12, No. 16: *German Prelates*, III. 14, No. 19.

priest against his will, and that the fraternity was exempt from compulsory attendance at the synods of any diocese, as also from obedience to statutes passed there.[1] Finally, in 1259, in so far as a constitution issuing from the papal chancery could do so, all doubt as to the pretended control of the parish clergy was removed by an explicit declaration that the friars might, without the assent of the parish priests, preach freely to the people, hear their confessions, and impose salutary penances, provided that they had received apostolic or episcopal license.[2] However, the complete autonomy which the Order thus enjoyed in the discharge of its pastoral duties roused the scruples of those who favoured the strict Observance, because it conflicted with the example of St. Francis and with the text of the Rule; and the question of preaching, without the sanction of the diocesan authority, was therefore one of the doubts which were laid before Nicolas III. during the preparation of the *Exiit*. But it was beyond the power of language to establish a convincing concordance between the later practice and the simple prohibition contained in the Rule of 1223. During the process of revision, not a single phrase had been inserted which could be construed as indicating any probability of the episcopal license to preach being superseded by that of the Holy See, although such a case was almost contemporary with the issue of the Rule. The difficulties of Nicolas III., and his failure to achieve the purpose of the *Exiit*, through this improvident delicacy of feeling on the part of his predecessors,[3] cannot be better illustrated than by his own words:

[1] Alexander IV., *Virtute conspicuos*, 2nd August 1258; Urban IV., *Cum a nobis*, 29th May 1264; Clement IV., *Virtute conspicuos*, 21st July 1265; Gregory X., *Cum a nobis*, 23rd August 1274; Honorius IV., *Virtute conspicuos*, 20th November 1285; Boniface VIII., *Virtute conspicuos*, 11th November 1295.

[2] *Cum olim quidam*, 13th May 1259. The phrase used in this constitution was "*parochialium assensu minime requisito*." Clement IV. substituted "*nullatenus requisito*" in his *Quidam temere sentientes*, 20th June 1265. Even this constitution did not escape petty interpretation, and was construed to mean that the license was not a continuing one, and therefore lapsed with the death of the Ordinary who had granted it. Clement IV. declared that the mandate did not so lapse; *B. F.*, III. 13, No. 17.

[3] The Statutes of the Dominican Order passed in 1228 provided that no preacher of the Order should disregard the interdict of a Bishop, unless he had letters or a general mandate from the Holy See. *Archiv für Litteratur*, I. 233–34.

"It is indeed expressly provided in the Rule, that the Friars may not preach in the diocese of any bishop when they shall have been forbidden (to do so) by him. We, deferring to this point of the Rule, but none the less maintaining Apostolic authority unimpaired, say that the foresaid phrase should be literally observed according to the text of the Rule, unless the Holy See may have granted or provided otherwise in this respect for the benefit of the faithful, or may in the future grant or provide."[1] Martin IV. restated the privilege in a categorical rather than an argumentative form, and expressed a desire that those who habitually confessed to the Franciscans should also confess at least once a year to the priest of their parish.[2] Like the *Innocentiana*, this clause, which had been intended to conciliate the Seculars, without in any way invalidating the absolution granted by a friar, merely served to resuscitate the controversy as to the real effect of confession to a friar priest. Several Parisian Masters endeavoured to prove that the absolution so granted was not absolute until it had been homologated by the parish priest;[3] and the question was thereupon referred to the Bishop of Paris, and a jury composed of Masters of Theology in the University, who returned a negative answer to the question put before them—"whether anyone, truly penitent, who had made confession to and duly received absolution from one empowered thereto, was bound to confess the same sins again." The Chapter General anticipated, or corrected, any abuse of this authority by forbidding friar priests to grant absolution in cases reserved to the Bishop by the written law, and also recorded the fact that the powers of the Franciscan priest in confession were co-extensive with those of his rivals.[4] The other papal constitutions of leading importance in the controversy during the last four decades of the century were a command by Clement IV. that the prelates should not interpret the privileges conferred upon the Franciscans by the Holy See, and a decree by Boniface VIII.

[1] Cap. 17, § 1. [2] *Ad fructus uberes*, 10th January 1282.

[3] *Chronica Glassberger*, *A. F.*, II. 96.

[4] *Ibid.* II. 96, 97–98; and *Archiv für Litteratur*, VI. 50–51. The Chapter also ordered the friar priests to exhort the people secretly to confess to their own priest.

exempting the Friars Minor from the jurisdiction of the prelates.[1]

As the privilege of burying laymen in the friary cemetery formed the second element of this controversy, dealt with in the *Super cathedram* of 1300, it will be of advantage to trace the development of that privilege, before considering the legislation which placed the relations between the friars and the clergy upon a final basis. The simplicity of the early Franciscans, and their gradual acquisition of ecclesiastical rights, may, perhaps, be nowhere more clearly appreciated than in a typical example of the Bull of Erection in which the Curia authorised the erection or acceptance of a new friary. Each privilege in that enumeration marked a step in their development from the time when they were little more than an aggregate of laymen and clerics, the symbol of whose corporate existence was love and reverence for one idea, and whose simple code of discipline was obedience to the personality which had given it birth. One significant step in the progress towards a formal constitution was the privilege of having a cemetery attached to the friary. At the time when the fraternity began to spread over Europe, laymen were thirled to the church of their parish—*matrici ecclesiae*—in the matter of burial with the rites of the Church. That is to say, they might choose to be buried elsewhere, provided the Rector or his ecclesiastical patron granted permission.[2] *Religiosi* were not, however, at liberty to choose a burying-place other than in the cemetery of their monastery, unless they happened to die at a considerable distance from it.[3] Distinct from the Penitent, the Friar Minor instinctively considered himself as a *religiosus*, although the clergy held other views; and, while St. Francis and his first associates occupied the Rivo Torto, this desire to care for their own dead was so far developed, that one of the

[1] Clement IV, *Ordinis vestri*, 7th July 1268; Boniface VIII., *Inter ceteros ordines*, 11th November 1295.

[2] *Sext. Decr.*, I. 18, cap. I.; III. 12, cap. I., restatement of these principles. Any priest who performed a funeral service in violation of this provision of the canon law, *ipso facto*, incurred church censure, and was bound to hand over everything received in respect of the interment.

[3] *Ibid.* III. 12, cap. I.

reasons adduced for acquiring the Portiuncula in 1211 was, that "if any brother should die it would not be decent to bury him here (Rivo Torto) *or in a church of the secular clergy.*"[1] During the heroic age, burial within the friary church was not unknown[2] and, when death began to thin their ranks, it was but a natural concession to sentiment that the friars should be permitted to enjoy this privilege, instead of being considered as laymen when they were called upon to leave nothing behind them except an example to their fellow-workers. Accordingly, their former Protector regularised the custom, and ensured its continuance independently of any consent, by granting them the right to bury members of the Order within the church or cemetery of the friary.[3] Three years later the churchmen, who resented this privilege as an invasion of their monopoly, were assured that the right did not extend to the burial of laymen, but was strictly confined to members of the Order.[4] Indeed, there is good reason to suppose that the Franciscans did not desire any extension of the privilege at this early date;[5] but, looking to the general terms in which the privilege was couched, the Seculars determined to minimise its value so far as possible, and to safeguard their own rights against any possible infringement. Thus, the friars of Roxburgh were forced to vindicate their rights in the court of the diocese;[6] and it is

[1] *Spec. Perf.*, cap. 55. In considering the evolution of this privilege, from the moral point of view, Friar Leo's quotation of his master's own words in this passage sets out in clearest relief the dilemma in which the friars were placed by the stubborn refusal of the clergy to recognise them as *religiosi*. St. Francis did not consider the parish church a suitable burying-place for the friar; but he commanded the Order to yield implicit obedience to the clergy, and thus prepared the way either for a radical deviation from the Rule or for the abandonment of their ecclesiastical character.

[2] *Chron. Fr. Jordani* and *Chron. Anonyma* (*A. F.*, II. 14–15, 286–287). The Bishop of Hildesheim permitted Friar James, Custos of Saxony, to be buried within the friary church, and performed his funeral service there.

[3] Gregory IX., *Ita vobis*, 26th July 1227. Re-issue, 9th March 1233.

[4] *Si Ordinis*, 1st February 1230.

[5] *Chronica Parmensium*, III. 125: *Monumenta Historica ad provincias Parmensem et Placentiam.* Referring to the burial of St. Elizabeth, Friar Salimbene says that they were unwilling to bury her in their church, because at that time they refused to accord sepulture within the friary precincts, "so that they might avoid the trouble as well as discord with the clergy." As late as 1248 they refused to admit the Comte de Provence to burial within the friary, although he had expressed a definite desire to be buried there. *Ibid.*

[6] *Supra*, pp. 6–7.

a matter for regret that neither the claims nor pleadings in the process have been preserved to illustrate the spirit in which the Scottish Franciscans interpreted this privilege. The mere fact that their opponents, the monks of Kelso, recorded the judgment in their chartulary, cannot be considered as a proof that they had refuted the claims of the friars to extend this privilege beyond the declaration of 1230. The cemetery was thereafter consecrated by the Bishop of Glasgow, although it frequently happened that the privileges of the friars were nullified by the refusal of the diocesan bishop to perform this and other kindred ceremonies of consecration. Petty obstruction of this nature was subsequently rendered impossible by a provision, that this ceremony might be performed by any bishop after the lapse of four months from the date on which the request of the friary Chapter had been laid before the bishop of the diocese.[1] But the most vexatious contention which the friars had to resist arose from a literal interpretation of the *Ita vobis*. The Seculars recognised the friary cemetery as the appropriate burial-ground for the brethren; but they perversely maintained that the body must, as before, be carried to the parish church, where they would perform the funeral service, and thereafter receive the funeral offerings.[2] In other cases, they contended that the ordinary customs of burial must be followed, unless the deceased friar had definitely elected to be buried in the cemetery of his friary; and in this, or in the rarer case of the privilege being entirely ignored, the friar was buried in the parish cemetery, after the funeral service had been performed by the Secular instead of by one of his fellow friars, as had undoubtedly been the intention of Gregory IX.[3] In 1231, His Holiness ordered the churchmen to desist from this unreasonable attitude; and two years later he re-issued the *Ita vobis*, without, however, securing to the friars a peaceful enjoyment of their privilege. In short, the clergy met this innovation with the same intermittent, but determined, resistance that they had already offered to the curtailment of their monopoly over the confessional; and the analogy

[1] *Ex parte vestra*, 18th January 1286. See also *Nimis iniqua*.
[2] *Nimis iniqua*, 21st August 1231. [3] *Ibid.*

between the two privileges was completed, when the Franciscans were permitted to admit any member of the laity to burial in their cemeteries. In 1250, Innocent IV. granted them full indulgence to administer the last sacraments to those who desired their ministrations on death-bed, and thereafter to bury them in the friary cemetery.[1] This power received further definition and authority in a general declaration that the right of sepulchre in Franciscan churches and cemeteries was free to all, except usurers and excommunicated persons.[2] "Henceforth nothing shall stand in the way of the last wishes of the devout who have expressed their desire to be buried there, saving always the rights of those churches in which the deceased would otherwise have been buried."[3] The civil and the canon law were thus brought into agreement in so far as choice of burial-ground was concerned, and laymen were free to indulge in any preference which they might have on grounds of sentiment or otherwise—a concession of no small value to members of the Third Order, for many of whom interment in their habit before the high altar of the friary church was an ideal termination to this life.[4]

The result of this general privilege should have been to place the Franciscan, in cases of definite election, upon an equal footing with the parish priest in that all-important function of performing the offices of the dead; but the general reservation of the rights of the parish priest quickly produced an

[1] *Qui Deum*, 22nd February 1250. The Humiliati already enjoyed this privilege, now extended to the Friars Minor, under confirmation granted by Innocent IV., 30th October 1246: "*Sepulturam quoque locorum vestrorum liberam esse decernimus*"; *Humiliatorum Monumenta*, II. 201, Tiraboschi.

[2] *Sext. Decr.*, V. 2, cap. II. Any priest who buried a heretic incurred excommunication from which he could not be absolved until he had publicly, and with his own hands, exhumed the body and cast it forth.

[3] *Cum a nobis*, 25th February 1250; *infra*, II. p. 440.

[4] A layman who took a "vow of burial with the friars," instead of making a simple choice, could not elect to be buried elsewhere without a papal indulgence (*Devotionis tuae*, 15th May 1313); and it would even appear that the family of the deceased preferred to assert their civil rights through a papal indulgence granting them permission to exhume and re-inter the body in accordance with their wishes, rather than to directly violate the choice of sepulchre (*B. F.*, V. 496, No. 907). In this manner the body of the Earl of Kent, 11th April 1331, was removed from the cemetery of the friary at Winchester to that of the Benedictine monastery in London.

anomalous state of matters. Compelled to respect the choice of sepulchre, the latter insisted upon performing the funeral service within the friary, and, as was his right, appropriating the mortuary dues. Further, where a fund had been bequeathed for the saying of masses for the deceased, it was also frequently appropriated, and the masses were performed within the friary church by the parish priest; while in cases of more generous interpretation it was contended that the body should be carried to the parish church in the first instance. The reactionary *Innocentiana* did not impair this privilege,[1] which was confirmed in 1256. Two years later, Alexander IV. provided an absolute remedy against these frequent evasions of the obvious intentions of the *Ita vobis*, by forbidding all churchmen to enter Franciscan churches or cemeteries for the purpose of conducting funeral services, or celebrating masses, without the goodwill and consent of the friary Chapter.[2] The less enlightened of the churchmen, however, continued to strive with all the tenacity of a privileged body to resist these encroachments upon their monopoly. In the first instance, they endeavoured to persuade the parishioner on death-bed to retract the choice of burial with the friars;[3] and, as a last resort, they refused the sacraments to the moribund. So gross an abuse of their office, although of rare occurrence, could not escape correction, and ere long the friars were authorised to impose church censures on any Rector or priest who refused to administer the sacraments.[4] In the same spirit, the exemption which the friars enjoyed from payment of the *portio canonica*[5] was frequently neutralised by the Bishop, who interdicted executors from handing over any bequest to the friars until the episcopal tax had

[1] *Supra*, p. 411. It merely provided that, even if they were not asked to do so, the friars should hand over the *portio canonica* of all that had been received in respect of the burial.

[2] *Virtute conspicuos*, 2nd August 1258.

[3] *Inter quoslibet*, 30th December 1266.

[4] *Dilecti filii*, 28th April 1260. In other cases the Rectors maintained that their consent was indispensable to any choice of burial-ground other than the parish cemetery. *Dilecti filii*, 22nd June 1288.

[5] Innocent IV., 1253, granted exemption *re* legacies in the form of church ornaments; extended, 1255, to any *mortis causa* bequest. *B. F.*, I. 669, No. 492; II. 88, No. 123, and 318, No. 463.

been paid; and, as the executor was not the benefactor of the friars, excommunication was used as a threat to enforce obedience.[1]

On the other hand, the generalship of St. Bonaventura is a convenient period during which to form a general appreciation of the attitude of the Franciscans in this controversy. The general purpose of this great administrator, as a churchman of broad views, was to exercise a controlling influence upon the relations between the voluntary and official clergy, so that the desired co-operation should not be imperilled by the untactful disregard or abuse of privilege. The shortcomings of his opponents he criticised in forcible language, on occasion by free use of the argument *ad hominem*; while the strictures which he passed on those of his subordinates were no less severe. Thus his controversial treatises, official letters and codification of the statutes of the Order, reveal many merits and demerits that would otherwise pass unnoticed; but even in the heat of controversy, his well-balanced, scholarly mind repeated in a more practical form the advice of St. Francis—to disarm their opponents by the excellence of their actions.

In his replies[2] to the attacks of the Secular theologians, the "supreme authority" of the Holy See was the basis of all argument. The pastoral charge, he maintained, was not a *dominium*, but a dispensation and office of the ecclesiastical power.[3] Confession to his own priest, at least once in each year, was a duty imposed upon the parishioner by the canons of the Church. Why, therefore, did the Franciscans preach and hear confession independently of the parish clergy, to whom the "cure of souls" had been committed?[4] Devolution of the supreme authority, was the answer. His Holiness the Pope, the priest and father of all, the Bishop, the Rector and the simple priest, represented a system of devolution which no one presumed to contradict. But the Friar Minor was as much the delegate of the Bishop, or of the Pope, as the parish

[1] *Inter quoslibet*, 30th December 1266.

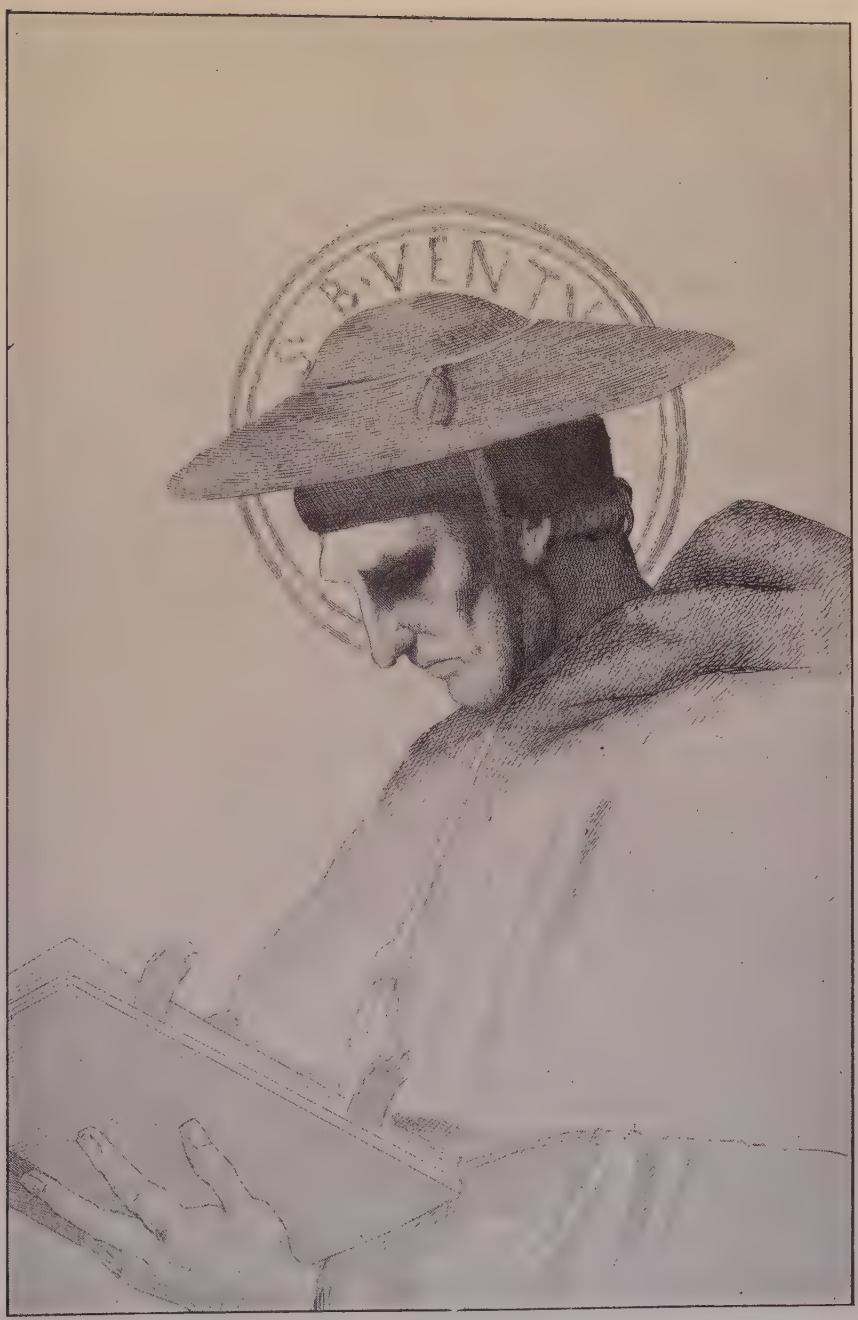
[2] *Epistola de tribus Quaestionibus; Determinationes Quaestionum; Quare fratres predicent et confessiones audiant; Apologia pauperum. Bonaventurae Op.*, VIII.

[3] *Ibid.* VIII. 428, § 4.

[4] *Ibid.* VIII. 375, 376, § 6.

St. Bonaventura, by Raphael.

After Etching by Le Rat.


S. B. VENTV

priest, and therefore possessed the same power or faculty in the fulfilment of his restricted pastoral and missionary duties. His ministrations were no less efficacious, nor was the absolution which he granted to the penitent less absolute.[1] The reason for the institution of the Order was furnished by the scriptural Parable of the Fishers, who found that their net was too full, and that they were unable to bring their catch to land without assistance. If, in that parable, the *world* were substituted for the *sea*, the *Church* for the *boat of Peter*, the *divine doctrine* for the *net*, and the *laity* for *the multitude of fishes*, it was clear that the friars stood in the same relation to the prelates of the Church as the Apostles James and John did to Peter. Unaided, the prelates could not "bring so vast a multitude of souls to the shore of eternal life."[2] After a sweeping indictment of the inefficiency of the Seculars, the controversialist passed from the basis to the details of the controversy.[3] The Franciscans, he replied, accepted *Places* in the parish without the consent of its clergy—it might even be without the consent of the Bishop—because they were empowered to do so by Apostolic authority, and because the citizens desired to have a friary in their midst. They were in no sense inferior to other Christians or churchmen.[4] After their settlement in the parish, they preached in virtue of the same authority as the Seculars, and so lightened their labours without impairing their jurisdiction or prejudicing them in any way.[5] They preached in their churches only with their consent, and at a time when they themselves did not preach.[6] The friary church or the market-place afforded room enough for their preaching; nor did they seek to attract the people, or to impede any secular priest in the conscientious discharge of his duties.[7] Still less did they cause him any pecuniary prejudice, as they sought neither rents nor offerings, accepted nothing at the friary mass,[8] and handed

[1] *Bonaventurae Op.*, VIII. 376, § 8, 383.
[2] *Ibid.* VIII. 377–78, § 11; and Quaestio II. pp. 338–39.
[3] *Inter alia*, *ibid.* VIII. 358, 357 and 380.
[4] *Ibid.* VIII. 365, Quaestio X.
[5] *Ibid.* VIII. 377, § 9.
[6] *Ibid.* VIII. 378, § 12.
[7] *Ibid.* VIII. 365, 377, § 9.
[8] *Ibid.* VIII. 377, § 9. *Vide* Statutes of the Order against this custom, *infra*, pp. 425–26.

over all the perquisites or dues to which the parish church had right in respect of a burial within the friary.[1] He, however, admitted the truth of the reproach, that the friars gave no more than formal obedience to the papal constitution which ordered them to exhort their listeners to make payment of tithes to the parish clergy.[2] But the people already suffered more than enough from these exactions, and the Franciscans refused to be a party to the increase of their terror in this respect.[3] On the same grounds, the private lives of the clergy were frequently attacked in the sermons of the friars, because, when they touched upon the lives of laymen in their sermons, they were frequently met with the reply that the faults of the clergy were at least as notorious, and that it was unjust to pass over them in silence. They were thus bound to criticise lest their silence should be attributed to fear, and they themselves incur the reproach of being parties to a conspiracy of silence for reasons of private favour. However, on grounds of general policy, such references were temperate in character.[4] Similarly, friar confessors caused no prejudice to the parish priest who was worthy of his office; because a sick man might seek the advice of other doctors without prejudicing his regular adviser, unless perchance that adviser "was a prey to envy or greed or was confused by shame."[5] If the parish priest were a "fit and suitable" confessor, the absolution granted to the penitent by the friar confessor was suspensive, and granted "in the hope of rehabilitation by his own pastor," to whom he was directed "to reveal himself again at his own time in accordance with the mandate of the church."[6] No penitent was, however, bound to make confession to a man whom he feared, who was known to reveal the secrets of the confessional, or whose life was no less scandalous than his own.[7] In these cases, which were frequently brought to the notice of the friars,[8] the penitent was not directed to resort to his own

[1] *Bonaventurae Op.*, VIII. 365.

[2] Innocent IV., *Summus orbis opifex*, 6th December 1249.

[3] *Bonaventurae Op.*, VIII. 372, Quaestio 22.

[4] *Ibid.* VIII. 356–57; *infra*, pp. 424–25, the real views of Bonaventura on this practice.

[5] *Ibid.* VIII. 378, §§ 12–13. [6] *Ibid.* VIII. 380, § 18, 383. [7] *Ibid.* VIII. 381, § 20.

[8] *Ibid.* "*Coram quibus timent tota die confundi, sicut saepe praecipimus.*"

priest, and received complete absolution in accordance with the authority delegated to the friar confessor by the Pope or Bishop. The Minister General, therefore, maintained that the Apostolic privileges accorded to the Order were equivalent to the canons of the General Council; and by his frank recognition of the opinion of the individual as the deciding factor in questions of obedience or disobedience to the discipline of the Church, he approved the deliberate choice of the parishioner who sought absolution from a friar priest, because he considered his own priest unworthy of his office.[1] The advantages of confession to a friar were also accentuated. It was a voluntary action. The friar was readily accessible, often unknown,[2] and always impersonal, in the sense that no one need dread pecuniary penance, or that his secret shame would reach the ears of his fellow-townsmen.[3]

In his writings[4] concerning the administration of the Order, Bonaventura attacked the problem from the point of view of Franciscan discipline; and the connecting link between his controversial and administrative writings was the desire that the friars should neither belie his vindication of the Order, nor prejudice the possibility of peaceful co-operation. He was opposed alike to the excessive idealism of the Spirituals, and to all undue relaxation of the Rule. In his view, it was unnecessary to abandon *expropriation*[5] or their purely pastoral duties. There is thus a consistent distinction maintained between preaching and the hearing of confession, on the one hand, and the burial of laymen in their cemeteries, with its too frequent concomitant interest in testamentary writings, on the other hand. The last mentioned was not a

[1] *Bonaventurae Op.*, VIII. 380, § 18. In relation to ecclesiastical discipline, it would be difficult to select a more striking illustration of the democratic tendency of Franciscan teaching than this proposition in the thirteenth century. *Supra*, pp. 46, 100, the doctrinal orthodoxy of the Franciscans.

[2] Cf. Matthew Paris (*R. S.*), III. 332.

[3] *Bonaventurae Op.*, VIII. 381, § 20. He enumerated seventeen reasons for confession to a friar, ten of which related to the shortcomings of the Seculars.

[4] *Expositio super Regulam Fratrum Minorum; Epistolae Officiales*; *Constitutiones Narbonenses*, "*in quo constitutionibus ordinis formam et ordinem Bonaventura dedit*," *Glassberger Chronica, A. F.*, II. 75.

[5] *Bonaventurae Op.*, VIII. 450, *Narbonne Constitutions*, cap. 1, "*Statuimus in principio quod nullus ad Ordinem recipiatur nisi expropriatus omnino.*"

pastoral duty, although a natural result of their ministrations in the parish; and it was not only strongly resented by the clergy on the grounds of pecuniary prejudice, but it also provoked discord within the fraternity itself.

Accordingly, when dealing with the "discord, scandal, and mutual hate," which arose from the attacks made upon the private lives of the Seculars in the sermons of the friar preachers, Bonaventura followed the injunction of St. Francis,[1] in a vigorous condemnation of this "shameless audacity." It was untactful and also an offence against the divine law, which forbade any one "to curse the deaf or to place a stumbling-block before the blind."[2] Great care was, therefore, necessary in the choice of preachers, these attacks were to cease, and "insolent" preachers to be expelled from the Order.[3] Nevertheless, this use of invective against the lives of their listeners—a practice also adopted by our early Presbyterian preachers[4]—never wholly disappeared. Clement V. laid his veto upon the delivery of sermons calculated to induce parishioners to desert the parish church. Martin V. prohibited the practice of naming anyone present in opprobrious language; and the fifth Lateran Council threatened excommunication and forfeiture of office as the punishment to be inflicted upon friar preachers who offended in this respect.[5] In another direction Bonaventura was less faithful to the precepts of St. Francis. He reminded the friars that their duty was to preach the divine word and not mere fables. Study was the best preparation for that duty,[6] and the preachers of the Order were, therefore,

[1] "*Tegite eorum lapsus multiplices, eorum supplete defectus, et cum haec feceritis humiliores estote.*" Cf. *Spec. Perf.*, cap. 105. ". . . the blessed Francis was never silent concerning the evil deeds of the people when he preached, but did rebuke all publicly and manfully."

[2] *Bonaventurae Op.*, VIII. 470, *Epistolae Officiales*, No. 2.

[3] *Ibid.* VIII. 469. Cf. Statutes of the Dominican Order, 1228, which forbade the preaching of any scandal against the clergy. *Archiv für Litteratur*, I. 223–24.

[4] The resemblance extended even to the actual language used. One might easily believe that the scathing invective of John Knox, known to us in the rugged but expressive Scots vernacular of the sixteenth century, was no more than a translation of the same phrases expressed by Friar Bonaventura in more ornate Latin in the thirteenth century. *e.g. Op.*, VIII. 357–58, 380.

[5] *Regula Fratrum Minorum*, p. 153 (Hilarius). *Clementinae*, lib. V. tit. VII.; *Bull. Capuc.*, VI. 133.

[6] *Bonaventurae Op.*, VIII. 470, 433; *Expositio super Regulam*, cap. III.; *Epistolae*

permitted to have a Bible or Testament out of the alms;[1] while other friars were to be deprived of any books found in their possession, and to suffer punishment *probationis caputio* for this sin against the vow of *expropriation*.[2] This ample recognition of the merit of study tended to alienate the Franciscan sermon still further from its original simplicity and spontaneity,[3] and Friar Ubertino bitterly complained, fifty years later, that their founder never intended so many preachers to be withdrawn from active work, and devoted to study and the preparation of composite sermons, to be delivered to their listeners "after the manner of a magpie."[4] Further, their Superiors did not "correct" the friar preachers for delivering these ambitious and solemn sermons,[5] and the silence of their churches and oratories was disturbed by the "hum" of congregations. This perfervid Spiritual also regretted the changed custom of preaching without the consent and goodwill of the prelates, and maintained that their papal privileges could not excuse the practice, inasmuch as they made no express mention of the Rule.[6] Bonaventura, however, held other views. He boldly stated that it was inexcusable folly to depend upon the goodwill of the prelates,[7] and that it was preferable to depend upon previous study rather than the inspiration of the moment in the delivery of their sermons. At the same time, he strongly disapproved of the practice of taking collections and of placing offertory boxes in the churches. The custom violated the Rule as well as the *Quo elongati* of Gregory IX.; and, of equal importance in the eyes of the Minister General, it afforded a just ground for reproach by the Seculars, who

Officiales; De tribus Quaestionibus. St. Francis vehemently inveighed against the pursuit of knowledge, and predicted that it would be the ruin of the Order. *Spec. Perf.*, cap. 69.

[1] *Bonaventurae Op.*, VIII. 333; *Narbonne Constitutions*, cap. II. p. 456.

[2] *Narbonne Constitutions*, cap. VII. p. 457. Cf. *B. F.*, VII. No. 1766. If the discovery were not made until after death, the friar was deprived of Christian burial. *Infra*, p. 482.

[3] Cf. *La Vie de St. François*, pp. 147–48, where the author illustrates the difference between the sermons of St. Francis and St. Anthony of Padua.

[4] *Archiv für Litteratur*, III. 75, 178.

[5] *Ibid.* III. 122.

[6] *Ibid.* III. 122, 168.

[7] *Op.*, VIII. 365, Quaestio X.

complained that the friars absorbed a quantity of alms that would otherwise have come to them.[1] This "pest" was again attacked with partial success by the Chapters of 1274, 1276 and 1282, and remained to furnish an apt simile for one Franciscan writer, Cyprianus Crousers, who maintained that Syndics and offertory boxes were identical—"*quod cippi sunt inanimi Syndici; Syndici vero animati cippi.*"[2] In dealing with the question as to how the friars should act in relation to permission to preach, Bonaventura counselled moderation, so long as they were not impeded in the discharge of their pastoral duties. In the first instance, the friar was directed to obtain the sanction of the Bishop,[3] and it was also his duty to win the goodwill and consent of his fellow-workers in the parish, smoothing away a rude refusal by increased humility. Only when every means at his disposal failed to procure their consent, was he at liberty to preach by his own right, and with the certain knowledge that the unreasonable attitude of the churchmen would prejudice them in the eyes of every one.[4] Moreover, if the Bishop frustrated his desire to conform to the Rule, a friar who preached in face of his veto did not transgress the Rule, because he was in rebellion against a "wolf," and not against a Bishop or a Pastor.[5] Similar advice was given to the friar confessors,[6] and general rules for their appointment and conduct were inserted in the Narbonne codification,[7] without prejudice to the Apostolic ordination. They were to be chosen by the Provincial Minister and thereafter to receive the license of the diocesan Bishop[8] or the permission of the parishioner's own priest.

[1] *Bonaventurae Op.*, VIII. 356, Quaestio I.; *Narbonne Constitutions*, pp. 452, 465; and Pastoral letter at p. 467.

[2] *Regula Fratrum Minorum*, p. 238 (Albertus à Bulsano).

[3] Alexander IV., *Cum olim quidam*, 13th May 1259, provided the alternative authority of a papal Legate.

[4] *Bonaventurae Op.*, VIII. 428; *Expositio super Regulam*, cap. IX. § 4.

[5] *Regula Fratrum Minorum*, p. 156 (Hilarius).

[6] *Bonaventurae Op.*, VIII. 429, cap. IX. § 6.

[7] *Ibid.* VIII. 456, cap. VI.

[8] Cf. *The Grey Friars in Oxford*, pp. 63–4, 159. The Provincial, Hugh of Hertepol, presented twenty-two Oxford Minorites for license to hear confessions at Oxford. The Bishop of Lincoln restricted his license to eight of the candidates, on the ground that twenty-two was an excessive number. This was an instance of the practice which induced Boniface VIII. to direct the Superiors of the Order to

With the purpose of removing all grounds of another reproach frequently levelled against the Order by the clergy, confessors were forbidden to impose pecuniary penances, or, if the circumstances warranted such a penance, to receive any benefit thereunder for themselves or their friary;[1] and a stringent veto was laid upon the practice of granting absolution to usurers who had not made due restitution in accordance with the "canonic sanction."[2]

In his solution of the problem arising out of the burial of laymen within the friary, Bonaventura grappled with a pecuniary spirit that was rapidly permeating the fraternity—"a certain litigious and greedy invasion of burials and testaments to the exclusion of those to whom the cure of souls was known to belong"—and expressed his disapproval of it in the most absolute terms. The "known hatred" of the clergy against the friars, he wrote, was largely due to this spirit, and their father, the Pope, had desired him to warn them against it.[3] He, therefore, commanded the Provincials to devote their attention to maintaining peace with the parish clergy in this direction, and to afford them no just ground for complaint. It would, indeed, be well if convincing proof were given to the world that their aim was "the salvation of souls and not material gain";[4] and, to that end, the individual communities were forbidden to influence anyone, directly or indirectly, in their choice of sepulchre, to vindicate their right to a corpse in a court of law without the consent of the Minister General, or to show any irreverence to the parish clergy by their actings in this matter.[5] The general privilege accorded to the Order in 1250[6] had permitted the friars to admit laymen to burial within the friary, in accordance with their deliberate choice, but it had not conferred upon laymen the corresponding right to demand

maintain a just proportion between the number of confessors and the work to be performed by them. *Infra*, p. 430.

[1] *Bonaventurae Op.*, VIII. 452, *Narbonne Constitutions*, cap. III.

[2] *Ibid.* VIII. 467. Friar Ubertino gave a well-authenticated case of the absolution of usurers "for the purpose of acquiring money," and asserted that the abuse continued in his day. *Archiv für Litteratur*, III. 106–107.

[3] *Ibid.* VIII. 470, *Epistolae Officiales*, No. 2.

[4] *Ibid.*

[5] *Ibid.* VIII. 467, *Narb. Con. Additamenta*; *Archiv für Litteratur*, VI. 96.

[6] *Cum a nobis.*

burial there. The Superiors were accordingly directed to maintain the privilege against all contradicters, and were advised to avail themselves of it only in cases where a refusal to carry out the wishes of the deceased would cause a scandal.[1] Finally, the friars were directed to abandon districts where there was a parish cemetery or baptistery, if, as a result of their presence there, they were called upon to bury the dead or to baptize children.[2] Nevertheless, the alleged "cupidity for burials and burial offerings"[3] remained, and in 1276 it was found necessary to place a distinctive mark over the graves of laymen in their churches or cemeteries.[4] Pope Adrian V. was interred in the friary at Viterbo,[5] and Martin IV., "because he was the intimate friend of the Order,"[6] elected to be buried in its habit in the church at Assisi.[7] Cardinals of the Church also, on occasion, expressed a similar preference,[8] and the desire of the King and Queen of Hungary, that the friary should be their last resting-place, gave rise to one of the frequent scandals that arose out of this privilege.[9] In following out this practice, the claims for restitution of the body which had been wrongfully buried in another cemetery, and the general acceptance of the funeral offerings, with a view to sale and application to the needs of the friary, provoked the active opposition of the Spirituals, who maintained that it

[1] *Bonaventurae Op.*, VIII. 453, *Narbonne Constitutions*, cap. III.

[2] *Ibid. Definitiones*, VIII. 466. The advice of John of Parma, Minister General, to the Chapter held at Metz, might be aptly applied to this privilege: "Let us not add to the number of our constitutions, but observe those well which we have." *Archiv für Litteratur*, VI. 31.

[3] *Archiv für Litteratur*, II. 391, Friar Ubertino.

[4] Chapter General, Padua; *Chronica Glassberger*, *A. F.*, II. 89.

[5] *Ibid.* II. 89.

[6] Salimbene, *Chronica*, p. 332, Ed. *supra.*

[7] *Glassberger Chronica*, *A. F.*, II. 100. He was not buried there owing to the death of his successor before his will had been fully executed. This incident is also narrated in *A. M.*, V. 139.

[8] *Cardinalis Episcopus Praesentinus*; *Glassberger Chronica*, *A. F.*, II. 90.

[9] Anno 1270, *ibid.* II. 90. The Archbishop of Strigonia caused their bodies to be exhumed and interred in his Cathedral Church. The friars appealed direct to Rome, with success, and re-interred their bodies before the friary altar of the Virgin. In 1318, a similar dispute arose between the Franciscans and Dominicans in Ireland (*B. F.*, V. 298); and the case narrated by Mr. Howlett (*M. F.*, II. xiv.) is an apt illustration of the manner in which Franciscan privileges were ignored. The editor's injustice towards the English Franciscans in this instance will be readily apreciated by the reader.

was inconsistent with the "highest poverty." Their disapproval of the custom found expression in the specific charges of Friar Ubertino against the Order—that the friars neglected other duties for the purpose of "procuring funeral offerings";[1] that the burial of rich men had destroyed the former confidence in alms as a means of sustenance;[2] that on the Day of the Dead absolutions were granted over the graves in their cemeteries, and money received therefor; and that usurers were unlawfully buried by the friars with the rites of the Church on account of the greedy desire to receive the ample offerings made on such occasions.[3] This practice Ubertino quaintly defined as apostasy against the vow of expropriation, and foresaw the danger of simony in funerals as well as in the celebration of masses for money; while he reminded his contemporaries that their predecessors had strenuously refused to allow laymen to be buried within the precincts of the friary. Now there were countless funerals of the noble and the rich there.[4]

The experience of principles and detail gained by all parties during this controversy was embodied in the *Super cathedram*, issued by Boniface VIII. in the last year of the century. It was, in effect, the Charter of Liberties of the Mendicant Orders; and, in conjunction with its explanatory constitutions, it placed the future relations between the two parties upon a definite basis, and established a well-ordered *modus vivendi* by a clear and unequivocal definition of rights and functions.[5] It was suspended by the successor of Boniface VIII., on the ground that "it had produced turmoil in place of the quiet which it had been intended to effect," and that, "by the removal of one head, it had raised up a seven-headed hydra";[6] or, in more simple language, because the churchmen raised a storm of protest against the serious

[1] *Archiv für Litteratur*, II. 402.

[2] *Ibid.* III. 69.

[3] *Ibid.* II. 402, III. 107.

[4] *Ibid.* III. 114, 182.

[5] *Super cathedram*, 18th February 1300, *infra*, II. p. 447. *Nuper ut discordiae materia*, 27th May 1300; *Inter dilectos filios*, 9th August 1303.

[6] Benedict XI., *Inter cunctas sollicitudines*, 17th February 1304; which did not differ in essentials on the question of preaching and confession from the *Super cathedram*.

curtailment of their emoluments resulting from it. The controversy was finally referred to the Council of Vienne, and the *Super cathedram* was thereafter restored by Clement V. for the purpose of establishing that degree of friendly co-operation so long desiderated by the ruling hierarchy.[1]

The friars were now permitted to preach freely to the clergy and the people in their own churches and in the streets,[2] except at the hour when the prelates desired to preach or to have sermons preached before them. They might also preach in the general schools under the same exception, and in the parish church with the consent of its clergy. Under this constitution, the friars also received full permission to hear confession, impose penance and grant absolution to all who desired to confess to them, the ministers being directed to present those who had been chosen for the office to the prelates of the Church for their formal sanction. If the candidate were refused, another might be presented in his place; but, if sanction were persistently refused to every candidate, those who had been chosen by the Provincial were empowered to hear confession in virtue of Apostolic authority.[3] Confession to a friar priest, Benedict XI. once more explained, was of the same effect as confession to a secular priest;[4] and, in common with his predecessor, he categorically declared that the right of the friar to hear confession proceeded not from the sanction of the prelates, but "from the plenitude of the Apostolic power."

Finally, the general privilege of admitting laymen to burial within the friary cemetery was re-confirmed, under the condition that the friars should hand over to the parish priest or Rector the fourth or *portio canonica* of all that had been received in respect of the burial, whether as oblations

[1] *Dudum a Bonifatio*, 6th May 1312.

[2] To the general right to preach, Benedict XI. added the words, *absque diocesanorum et aliorum prelatorum petita licentia*, as a preferable form of definition to that adopted by his predecessor.

[3] The Order was directed to exercise great care in the choice of friars for this office, and to abstain from selecting a greater number than was necessary for the work; while the friar confessor was urged to exhort those who confessed to him to confess at least once a year to the priest of their parish.

[4] He forbade the Mendicants to grant absolution in cases reserved to Bishops, Superiors, or the Holy See.

or otherwise. The amount of this "fourth," which had varied in preceding practice from a quarter to a half in different parts of Europe, was now fixed at one quarter for all countries;[1] but even the payment of this restricted tax was a severe strain upon the friary exchequer, if any reliance may be placed on the thrice-repeated appeal which Clement V. made to the generosity of the prelates in the third session of the Council of Vienne, urging them to show greater leniency towards the friars than was demanded of them in the constitution.[2] During the summer of 1303 the details of the ceremony to be observed at a funeral in the friary were debated in the Curia by procurators representing both parties, and were embodied in the *Inter dilectos filios*.[3] These details established the complete independence of the friars on such occasions, by the provision that it was unnecessary to carry the body to the parish church, or to perform any part of the funeral service there. The funeral procession, headed by the cross of the friary, was to proceed directly to the conventual cemetery, the friars reading the office of the dead or chanting the psalms, and carrying the thurible and blessed water. The parish clergy, if they desired to take part, were permitted to join in the procession, carrying the cross of their church; while the funeral service within the church and cemetery was placed entirely in the hands of the friars.

The *Super cathedram* did not deal with the sacraments of baptism and marriage, which were foreign to the controversy, in the sense that neither the Holy See nor the Superiors of the Order desired to interfere with the recognised duties of the parish clergy in this direction. The instances in which friars did assume, or claimed the right to assume, this quasi-civil function are to be regarded as isolated breaches of

[1] *Nuper ut discordiae materia*, 27th May 1300. For a brief period, during the pontificate of Benedict XI., this division was modified, in reply to the protests of the churchmen, to the extent that the bishop should receive his "fourth" out of all bequests, and the parish priest one half of the funeral offerings and dues, by which were meant *omnia quae cum funere deferuntur*, except the wax and candles.

[2] *Nam non possunt alias vivere.* Boniface IX. declared that he did not approve of the payment of the "fourth," and directed the friars of Assisi to hand over one half of the "wax" instead of paying the "fourth." *B. F.*, VII. No. 120.

[3] 9th August 1303.

discipline, which were repressed by the central authority for the same reasons, and in the same manner, as the more frequent and stubborn disregard for the privileges of the Franciscans. When allegations of interference with these sacraments were made, the practice was at once forbidden ;[1] just as had been done in the case of the friars of Pisa, who introduced polemics into their sermons and maintained that tithes and kindred payments were not due to the Church under any system of natural law.[2] The intention of the Holy See was to direct the voluntary services of the friars towards supplementing the ministrations of the parochial clergy, consistently with their respective Rules ; and a healthy rivalry was thus established between the two classes by the freedom of choice accorded to laymen in the matter of spiritual guidance. Indeed, the advent of the Mendicants, in addition to developing the art of preaching, removed a serious evil from the Church in the Middle Ages—the estrangement between the sentiment of the parishioner and the celebration of divine worship, proceeding from the personality of the pastor.

[1] John XXII., *Petitio venerabilis*, 17th November 1316.
[2] Gregory IX., *Discretioni vestrae* ; n.d. Cf. p. 293.

A Grey Friar preaching.
From 14th Century MS. in Brit. Mus. Lib.

Statue of St. Francis at Assisi, by Dupré. Erected on the occasion of the Six Hundredth Anniversary of his Birth.

To face p. 433, *Vol. I.*

CHAPTER XII

THEORY OF FRANCISCAN POVERTY

THE outstanding feature in the Rule of life which St. Francis imposed upon his followers was the vow of poverty.

> "I firmly command all the friars not to accept coin or money in any manner of way, either by their own hands or through an interposed person; nevertheless, let the Ministers and "Custodes," with the assistance of spiritual friends, provide for the needs of the sick and for the clothing of the other friars,[1] as they consider necessary according to the district, season and cold countries; provided always, as has been said, that they accept neither money nor coin.
>
> Let the friars, to whom God has given the grace of work, labour faithfully and devoutly so that they shun sloth without extinguishing the spirit of holy prayer and devotion, to which everything temporal should be subservient. Let them accept the necessaries of life, other than coin or money, for themselves and their brethren as the wages of their work, and that with humility as becomes the servants of God and disciples of most holy poverty.
>
> Let the friars appropriate nothing to themselves, neither house nor place nor anything; as pilgrims and strangers in the world let them seek alms with confidence; and they need feel no shame in doing so because the Lord made Himself poor in this world for us. Herein lies the excellence of absolute poverty which has instituted you heirs and kings in the kingdom of heaven, has made you poor in possessions and rich in virtues. Let this, which leads to the land of the living, be your portion, dearest brethren; devote yourselves entirely to it, and never desire aught else under heaven for the name of Lord Jesus Christ."[2]

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[1] In the view of St. Francis, recourse to "spiritual friends" for these two purposes was an obligation and not a license. The friar who had divested himself of all property and worldly ties before admission to the fraternity, had the right to regard his Superior as his father (*Expositio Regulae Fratrum Minorum*, p. 201, Albertus à Bulsano). This idea was developed in the Observatine Statutes of 1451, which provided that a Warden might not provide for his own clothing or food, until provision had been made for all the friars in the community. *M. F.*, II. 93.

[2] *Solet annuere*, caps. 4, 5, 6.

To the romantic feelings of his contemporaries, who could perceive its reality in the lives of the Saint and his immediate associates, the severity and subjective idealism of this Rule appealed with intense force. Yet it was not given to every friar to share with his leader in that intimate joy which he experienced in those high mysterious espousals with his dear Lady Poverty. In the obedience of many, intellect exercised a disturbing influence over the heart; and critical definition became an imperfect substitute for spontaneous obedience. Hence, when the purely spiritual character of the Rule became somewhat obscured in controversy and debate—resulting from its contact with the exigencies of life and practical administration—complete and perfect observance was found to be an impossibility. St. Francis, in his "clear and simple manner," had endeavoured to dissociate the religious profession of his disciples from the privileges of citizenship, and thereby provided an interminable series of doubts as to the legitimate observance of the vow of poverty. Each friar, as a member of the Order, had an ecclesiastical personality, defined by his ordination vows and by the canons of the Church, distinct from his civil personality, in virtue of which he benefited under the respective systems of positive law. One system, interpreted in its strictest sense, forbade him to have any share in the rights and privileges which the other extended to him as a citizen of the state. The concrete question which the Holy See[1] had thus to settle was: Could these two conflicting systems be brought into practical agreement, so that the Franciscans, while obeying the spirit rather than the letter of their statutes and ordinances, might prove useful members of the Church, which was not itself bound down by a vow of absolute poverty? It was inevitable that a wider and more generous interpretation of their vow should come to be accepted. So vast an organisation could not rest upon a mere theory; and what more simple basis could have been selected than the identification of the friars

[1] More than one of the Supreme Pontiffs claimed a special qualification for this task—Gregory IX. as a *familiaris* of St. Francis; Nicolas III. as having grown to manhood among the friars; Alexander IV. as having filled the office of Minister General; and Sixtus IV. as having been nurtured in the Order and in its doctrine and discipline from his earliest years.

with the locality in which they ministered? To that end, acquisition of land on which to build a friary, and provision for the expense of maintenance, as well as for the sustenance of its inmates, were considered the most practical means. For this reason, and under the influence of the theory of common ownership which supplanted the law of the family in every monastic community during the Middle Ages, the rugged asperity of the Rule was softened; but it cannot really be alleged that the individual was interfered with as an exponent of Franciscanism, the real meaning of which was practical Christianity rather than theoretical respect for a Rule.

The friars were permitted to have no relation with property, other than that of "use" in its most restricted sense; and, in his own life, St. Francis interpreted this relation with property as a loan, considering that it was theft if he used an article while another had greater need of it.[1] Definition and criticism were quickly brought to bear upon this simple command, which had been formally confirmed by Honorius III. in 1223.[2] One section of the fraternity maintained that the property belonged to the whole Order in common; while the purists denied collective as well as individual ownership. This controversy was dealt with by Gregory IX. in the first interpretative declaration of the Rule,[3] in which His Holiness explained that the friars possessed no property, either in common or special, and that merely the use of the churches, furnishings and books, was granted to them, without any right to alienate or exchange the same unless the Cardinal Protector gave his consent. The radical right of ownership therefore remained vested in the donors, the friar-occupants being considered as mere users. This idea of common ownership, so categorically rejected in the *Quo elongati*, must not, however, be lost sight of.[4]

[1] *Spec. Perf.*, cap. 30. "*Ego nolo esse fur, nam pro furto nobis imputaretur si non daremus ipsum (mantellum) magis egenti.*"

[2] *Solet annuere.*

[3] *Quo elongati*, 17th October 1230; *infra*, II. p. 397.

[4] It was definitely recognised by St. Francis himself in regard to books—"*paucos haberi voluit et in communi eosque ad fratrum necessitatem esse paratos*"—but it was vigorously attacked by him as a principle. *Spec. Perf.*, caps. V. XIII.

In relation to the civil law, it remained the basis of every subsequent interpretation of the Rule; whereas cases of individual ownership among the friars were rigorously repressed. The brethren were allowed to exercise all the privileges of common owners in the direction of transactions affecting the interests of their convent; and, in proportion as the idea of their being mere pilgrims and strangers receded, and as the property which they used came more and more to be identified with a particular Friary, Custody or Province, common ownership exercised a more definite influence upon the successive modifications of the Rule sanctioned by the Curia. No better instance of this identification could, perhaps, be found than the *Ex parte vestra* of Alexander IV.—one of many instances in which external influences increased the difficulties of a perfect observance of the Rule. Their founder had forbidden "appropriation" without defining legitimate "use"; and, when the friars were in course of changing the site of a friary, the churchmen frequently seized upon the buildings, books and ornaments, claiming them as their property. Alexander IV. therefore granted the friars power, through their Minister, to sell everything except the churches, and to transfer the books and ornaments to their new home.[1] The transition was completed when Leo X. and Clement VII. permitted the Conventuals to sell the friary lands, whenever it was to their interest to do so, and to compound with heirs in respect of legacies.[2] This theory entered upon the second phase of its evolution with the issue of the *Ordinem vestrum*[3] by Innocent IV., who declared that all places, houses and furnishings, that had in any way been devoted to the use of the friars, belonged in right and in property to the Roman Church, except in the case of donors who had made an express reservation in their own favour; and that, as the Franciscan Order possessed no rights of property, it could neither alienate nor exchange the same without papal sanction obtained through the Cardinal

[1] *Ex parte vestra*, 21st October 1255.

[2] Leo X., *Cum saepe numero*, 27th November 1519; Clement VII., *Nuper pro parte vestra*, 23rd November 1526.

[3] 14th November 1245.

Protector. The inconsistency of the *Quo elongati*, which allowed the Cardinal Protector to sanction the alienation of property of which he was not declared to be the owner, or even the delegate of the owner, was thus removed, and the title of the friars defined as one of simple possession. This theory, it must be remembered, had received the approval of St. Francis as early as 1220, when the Cardinal of Ostia calmed his indignation against the renegade friars of Bologna by an appeal to the public instruments containing an express declaration that the house which they had accepted belonged to himself in property.[1] St. Francis also had no scruples in regard to the use of the humble Portiuncula—in theory considered as the property of the Benedictines of Assisi, who had placed it at his disposal[2]—and he is recorded by Friar Leo to have said: "The Place of St. Mary of the Little Portion I am minded to devise and leave to the brethren by will, so that it may be held by the brethren in the greatest devotion and reverence."[3] In 1228, the tentative compromise brought into prominence at Bologna was still farther developed in the *Recolentes qualiter*,[4] which incorporated into the patrimony of St. Peter the ground and buildings of the church about to be built at Assisi, and selected an annual payment of one pound of wax as the symbol of ownership. In 1279, it was justified in the *Exiit* of Nicolas III. by the analogy of the Roman Law theory of the *Familia*: "Inasmuch as the donor is presumed out of his love for God to intend to transfer the property to another, in place of God there is no one more fitted to receive it than the Roman Pontiff, the Vicar of Christ. The Pope is father of all, especially of the Friars Minor. It is for his father that the son acquires property that is granted or given to him, just as the servant acquires for his master, and the monk for his monastery." Therefore, to avoid indefinite ownership, the property was assumed by the Holy See, which, in turn, granted the use of the same to the friars, who, by so renouncing, were not

[1] *La Vie de St. François*, p. 273. *Spec. Perf.*, cap. VI.

[2] *Spec. Perf.*, cap. 55.

[3] *Ibid.* In the same context, he laid the foundation of the schism between the clerks and lay brothers of the Order. *Supra*, p. 40.

[4] 22nd October 1228. The forerunner of the *Ordinem vestrum*.

homicides putting their own life in danger, since there were expressly reserved to them three modes of sustaining life: the proceeds of generous offerings, humble mendicancy and work.[1] In this simple form,[2] the theory was applied to the ownership of immovable property and its accessories devoted to the use of the Franciscans, and served to justify each extension of their rights as users. It, however, inevitably assumed an artificial aspect in relation to the various systems of civil law, if we endeavour to justify these modifications by the strict principles of modern jurisprudence. The most evident inconsistency lies in the powers of an owner, which the friars were ultimately permitted to exercise, because a person, whose title at civil law was merely that of an occupier, could not feu, let on long lease, or sell land;[3] and the point of absolute contradiction between theory and practice was reached, when the Conventuals received permission to alienate friary property independently of the triennial limitation,[4] and without the sanction of the Holy See.[5] This artificial aspect was due to the fact that the civil and the canon law were two independent systems. In relation to the civil law, the papal constitutions affecting the friars were permissive, and condoned their recognised interests under it, without being able to compel a recognition of the radical right alleged to be vested in the Holy See. Hence, writers, who endeavoured to establish a logical relation between civil ownership and the text of the Rule, uniformly failed in their task—except in those cases where the admission of civil ownership was qualified by the statement that the friars renounced the status of owners by handing over the property

[1] *Exiit qui seminat*, cap. II.; *infra*, II. p. 405.

[2] *e.g.* Boniface VIII., *Inter ceteros ordines*, 11th November 1295; John XXII., *Imminente nobis*, 13th September 1319, and *Ad conditorem*, 8th December 1322; Paul IV., *Ex clementi*, 1st July 1555. The series of constitutions dealing with the appointment of procurators in accordance with this theory will be found in Chapter XIII.

[3] Martin V., *Sincerae devotionis*, 19th February 1430, which granted this power to the friars in regard to lands at a distance from the friary.

[4] Paul II., *Ambitiosae cupiditati*, 1st March 1467, which forbade alienation of ecclesiastical property by feu, lease, or otherwise beyond a period of three years.

[5] Leo X., *Cum saepe numero*, 27th November 1519.

to the Pope, receiving in return a dispensation to the effect that "their civil acts were of no avail and had no effect in conscience."[1] Donors did not hand over convents or land merely for "use." It is even improbable that at the date of their donation they thought of anyone other than the friars with whom they were personally acquainted, and a perusal of the Scottish writs, other than the papal licenses to their foundations, gives no hint of this latent radical right. In these deeds the friars appear as ordinary citizens, receiving and alienating heritable property according to the forms prescribed by the law of the land, and acting independently of any papal constitution which permitted them to deal freely with their property. In the alienation of church lands at the Reformation, they acted according to their rights under Scots law, rather than as a corporation putting into practice the theories of the Roman Church; and it was expressly stated in the Feu Charters granted by the Friars of Dumfries that they acted in virtue of the Scots statute.[2] These contradictions appealed with varying degrees of force to the Franciscans themselves, either on sentimental or intellectual grounds. In some cases doubts were calmed by an appeal to the supreme authority of the Holy See, in others by arguments remarkable for their finesse and subtlety; but the definition of "natural use" laid down by St. Bonaventura remains the clearest utterance of a tranquil Franciscan conscience that paid little heed to theoretical distinctions. "Nothing belongs to me, whoever may be the owner of the thing which is granted to me *for use*. The ownership of it may belong to this or that state or church, or even to God alone; I, indeed, like the beast of the field, have nothing but the simple use, which can be separated from ownership—just as we see the use of things granted to many by nature, but the dominion to few." On the other hand, when both parties to the transaction belonged to the Church, the theory was fully observed in the dispositive clause of the deed: "I freely give and assign the said place, in length and breadth as it lies with its commodities and easements, from me and

[1] *Regula Fratrum Minorum*, § 832 (Hilarius).
[2] *e.g. MS. Feu Charter*, 10th June 1558; *infra*, II. p. 110.

my church to God and our blessed father the Pope of Rome. for behoof of the said friars."[1]

Books, church ornaments and vestments, were dealt with on the same footing as land or buildings, and similar conditions were applied to their alienation or exchange. They were definitely removed from the category of movable property, and were reserved within the patrimony of the Holy See by John XXII. when he exempted them from the provisions of the *Ad conditorem*. In theory, they were never considered as the property of the friars, although specially identified with them for their necessary purposes, but the anxious provision made for the retention of books, firstly in the friaries, secondly in the "Custody," and thirdly in the Province to which they were gifted,[2] affords another example of ownership in common which was refuted in principle and recognised in practice: "With regard to books, of which the Order and the friars have the use, and which are no longer the property of anyone else, they are henceforth the special possession of the Roman Church"; while the friars were granted a power of sale to be exercised through a procurator, and a power of exchange to be exercised by the authority and within the jurisdiction of the Minister General or the Provincial Ministers.[3]

The possession of annual rents was dealt with in a more definite manner, owing to the fact that the acceptance of any permanent source of revenue was foreign to the intentions of St. Francis. Clement V. accentuated the rigidity of the Rule in this respect: "It is affirmed that they received annual rents, sometimes in such numbers that this source is a complete mode of sustenance. Annual rents are, by law, of

[1] Disposition by Master William Forbes, Vicar of St. Giles, Edinburgh, of the Church of St. John the Baptist, outwith the Burgh, to the Friars Minor; 18th November 1464. *Infra*, II. p. 200.

[2] Benedict XII., *Redemptor noster*, 28th November 1336. Alexander IV., *Ex parte vestra*, 5th December 1255, ordered the friars, when promoted to a bishopric, to renounce the use of the books which, as a friar, they had been permitted to use, —*licet non ad eos, cum proprium eis habere non liceat, sed ad Ordinem pertineant, memoratum*—and Clement IV. still further accentuated the principle of identification, or common ownership, by forbidding the consecration of the friar-bishop, until the books had been returned to the proper authorities. *Providentia laudabilis*, 9th June 1268.

[3] *Exiit*, cap. XII.

the nature of immovable property, and the acquisition of such revenues is repugnant to poverty and mendicancy: there is no doubt that it is unlawful for the said friars to have or receive any revenues whatever, or even their use which is denied to them."[1] In regard to this form of revenue, almost the sole point of agreement among the Franciscans was, that it removed "the uncertainty of seraphic poverty." Bonaventura approved of the acceptance of those that were purely eleemosynary; while others maintained that it was lawful to accept the annual payments for a "moderate length of time."[2] When annual rents were offered to provide for the performance of masses after death, the upkeep of the tombs of laymen who had been buried in the friary cemetery,[3] or for other reasonable purposes, acceptance was, however, frequently sanctioned by papal privilege,[4] and in course of time the prohibition contained in the *Exivi* was neutralised by this custom of procuring an indulgence to accept. It was finally abrogated in the Bull of Concordance in favour of the Conventual friars;[5] and seven years later Clement VII.[6] permitted them to realise or anticipate legacies of money and rights bearing a tract of future time, provided that the duties imposed by the donors were duly performed and the price employed for the repair and general needs of the friary. The marked distinction in the practice followed by the Conventual and Observatine divisions of the Order in regard to these privileges has already been referred to.[7] After the middle of the fifteenth century, the Observatines refused to accept these

[1] *Exivi de Paradiso*, 1312, caps. 8, 10. The possession of garden ground for the cultivation of vegetables or other produce for sale was also forbidden by this constitution, on the ground that it was equivalent to the possession of property in the form of revenues. Garden ground might only be used for the purposes of meditation and repose. *Ibid.* cap. 13; *infra*, II. pp. 428–30.

[2] *Regula Fratrum Minorum*, §§ 874, 877. Ten years was the period fixed.

[3] Martin V., *Sincerae devotionis*, 11th July 1425.

[4] There are many recorded instances in which the friars voluntarily refused to accept the rents, or were ordered to divest themselves of them (Clement VI., *Sacrosancta*, 21st November 1342). In other cases, indulgence was granted to sell the rents: and, on occasion, the Pope sanctioned their acceptance but varied the conditions attached to the grant (Nicolas IV., *Exhibita nobis*, 18th August 1290).

[5] Leo X., *Omnipotens Deus*, 12th June 1517.

[6] *Dudum per*, 7th March 1524.

[7] *Supra*, pp. 128–37.

rents when they took possession of a Conventual friary. In earlier cases they laid their difficulties before the Pope, who received the rents and possessions into the patrimony of St. Peter, and appointed agents to administer the funds for their sustenance and for the giving of charity to the poor.[1] This provision did not wholly satisfy certain of the extremists, who contended that the interposition of these lay agents infringed the purity of their Rule. In reply, His Holiness granted a general power of sale of the friary endowments, and directed the application of the price towards the repair of their buildings.[2] Ten years later, a more stringent reading of the *Exivi* was adopted, when the Observatine Chapter decided that rents of this nature were inconsistent with the truth and purity of their statutes and Rule, seeing that not only rents, but also their use—even if the simple *usus facti* and not the *usus juris* were understood—was forbidden by this constitution. The Pope acquiesced in their decision, and sanctioned the transfer of the rents to the nuns of the Order of St. Clare,[3] whose Rule then permitted of their acceptance. In this case, the initiative obviously lay with the friars, the Pope merely giving his sanction to the decision of the Chapter on the question put before it by the cismontane Vicar General—ought they, as they had done for some years past, to continue to accept these rents, to be expended by the procurators on their behalf and in the name of the Church? The Bullaria disclose no instance of special direction from Rome to the Scots Observatines on this question; and the complete silence of our burghal and central records is conclusive proof that the *Exivi* remained the standard of their discipline.[4]

The theory of simple use, denuded of every legal right, was also applied to movable property, although a latent right in land differed entirely from a latent right in fungible property. The question was one of little importance to conscience in regard to offerings in kind, as acceptance was expressly

[1] Eugenius IV., *Exigit devotionis*, 13th January 1444; *Ad Ordinem Minorum*, 13th January 1444.

[2] *A. M.*, XI. 522. [3] Calixtus III., *In Domo Domini*, 20th June 1457.

[4] An excellent basis of comparison between the Observatines and Dominicans in Edinburgh is offered by the seventeen MS. vols. of Protocols, 1500–63; *supra*, pp. 275–76.

recognised in the Rule; and the sole doubt which did arise in this respect was, whether a Chapter might accumulate stores for future use. Clement V. explained that the practice was permissible, though contrary to the will of their founder, if there were serious grounds for believing that the necessaries of life could not be otherwise procured.[1] In the matter of pecuniary alms and other movable property, however, its application gave rise to serious doubts as to the reality of the vow of poverty. Gregory IX. admitted the use and consumption of money for *necessary purposes*, provided that the friars avoided actual contact with the money, and that it was expended on their behalf by the actual donor, by a deputy of his own choice, or even by one suggested to him by the friars themselves. It was explained that so long as this fund remained in the hands of the deputy or "interposed person,[2] it was the property of the donor, and the friars could in no sense be considered owners of it. Innocent IV. admitted expenditure in this manner for *useful* as well as for *necessary purposes*; Nicolas III. extended the purposes so as to include provision for *past and future necessities*; and Gregory X. permitted the sale or exchange of movable property "for things more necessary to them," provided the consent of the Minister General was obtained.[3] The actual result of these constitutions was to create a distinct relationship between the Order and property that was inconsistent with the vow of poverty, if that vow was to be considered as having any relation to the accepted meaning of the words *ownership* and *use*. It was difficult for men, who considered the question seriously, to believe that the precepts of their founder really permitted use, which was distinct from ownership only in name. Nicolas III. accordingly endeavoured to restore reality to the vow in its intellectual aspect, and to establish a logical and convincing concordance between the text of the Rule and the modifications which past experience had proved to be really necessary. He adopted the com-

[1] *Exivi*, cap. XIV. The Order was also advised by John XXII. to benefit from past experience. *Quorundam exigit*, 7th October 1317.

[2] *Quo elongati.*

[3] Gregory IX., *Quo elongati*; Innocent IV., *Ordinem vestrum*; Nicolas III., *Exiit*; Gregory X., *Voluntariae paupertati*, 5th November 1274.

promise put forward by Gregory IX. for the management of pecuniary alms, and the declaration of Innocent IV. that everything devoted to the use of the Franciscan Order belonged in property to the Holy See. His Holiness thereafter explained that no profession could be followed without the use of things; and that the actions of St. Francis himself, and the words used by him in the Rule, proved that the *necessary* use of things was permissible. They were allowed to ask for alms, to accept the necessaries of life as the price of their work, and were commanded to preach, which was impossible without knowledge. Knowledge implied study; study was impossible without the use of books. There could, therefore, be no doubt that *necessary use* was conceded for their sustenance and clothing, for divine worship, and for the study of wisdom. It was a more difficult task to harmonise this special form of use with legal principles. The renunciation of ownership, it was explained, did not imply the renunciation of the simple use of things, seeing that use was not a title of right but merely the name of a fact, which conferred no right to the actual use of the thing. Saving money, the friars might therefore have the moderate use of other things, so long as the permission of the owner was unrevoked. According to the civil law, usufruct and use were inseparable from the ownership of things. However, this was due to the fear that the permanent separation of the ownership from the right to use, would render the thing useless to its owner. In the case of the Friars Minor, the continued separation of ownership from use, which was granted to the poor, was not unfruitful to the owner, as it availed him "in eternity."[1] This argument was the most serious attempt to efface the distinction between the civil and ecclesiastical personality of the friars. At the same time, many clauses in the *Exiit* were purely disciplinary, in the sense that they were explanatory of the mode in which the Order should act in reference to privileges and obligations under the civil law. Thus, chapter eight conflicted with the rules of succession, inasmuch as no papal constitution could empower an agent, with purely administrative functions, to

[1] Cap. III.

exclude heirs from the possession of property which had been *in bonis* of the deceased donor. Again, the prohibition against contracting debt concerned discipline alone; while the suggested manner of repayment could only be observed if the particular creditor acquiesced in the suggestion that no definite guarantee of repayment should be given.[1] Nicolas III. approached this problem as a churchman who relied upon the moral effect of a papal constitution to support any doubtful proposition. John XXII., however, approached it as a lawyer, and placed the ownership of fungible property upon a logical basis. He considered poverty a lesser virtue than integrity and complete obedience,[2] and replied to the reasoning of the *Exiit*—which he declared to be founded upon a simulation—by a simple statement of the principles of the civil law. "Who can be called a mere user, if he be allowed to exchange, sell or gift?" The acts of the friars are known to be repugnant to nature, and beyond the rights of a "user." It was contrary to law and reason that a right of use, or mere use, should be constituted in such things distinct from the ownership of them. *Use meant the consumption of the thing itself.*[3] His Holiness, accordingly, denied that the Roman Church had any right of ownership in things "consumable in use" which were given to the Order.[4] This decision did not respect the vow of poverty in its literal sense. Yet, if a friar sincerely desired to select poverty as his portion, the theoretical distinction between use

[1] Cap. VI.

[2] *Quorundam exigit, supra*, p. 88.

[3] *Ad conditorem.*

[4] *Ibid.* In considering the attitude of John XXII. towards the Franciscans, Dr. Lea (*The Inquisition*, vol. III.) recognises the insuperable difficulties raised by the ideal of poverty; and, at the same time, he satirises the theory of Franciscan poverty as an "elusory gloss upon the Rule sanctioning the transparent device of agents." The ethical aspect of this controversy is best illustrated in the immediate acceptance of the theory, as defined in the *Exivi*, by the primitive Observatines; and the reader will observe that Dr. Lea has failed to appreciate the distinction—logical from the legal point of view—drawn between heritable and movable property in the *Ad conditorem.* John XXII. expressly homologated the theory *quoad* the former category, and, in regard to the latter, he calmed the storm of indignation by restoring the *Exiit* in 1331. Thus, instead of bringing "the Order down from its seraphic heights to everyday necessities," he rallied the Franciscans in defence of their theory, because, in the words of Thomas Aquinas, poverty need not be absolute, but should be proportioned to the object it is fitted to attain.

and ownership was of small importance; and this constitution, while removing the artificial aspect of his vow, enabled him to follow the example of Friar Bonaventura and to conform to the words of Clement V.: "In order that life be conform to truth, outward action must represent the inner disposition and the state of the mind." At the same time, John XXII. did not intend to obliterate the distinctive characteristic of the Friars Minor. Accordingly, in a public consistory in 1331, he dispelled any doubts that might have arisen from the interpretation of the *Ad conditorem*, by ordering the Provincial Ministers to obey the Rule and the chapters of the *Exiit* and the *Exivi* which dealt with the use of money;[1] and his successors revoked the *Ad conditorem*, without refuting the cogency of its arguments from the purely legal point of view. They maintained the theory of his predecessors, and permitted practice in accordance with his constitution; while the Franciscans themselves denied that any civil law right was conferred upon them by the *Ad conditorem*, maintaining that they had no more than a "natural ownership, in virtue of which every living thing is able and bound to make use of things necessary for the preservation of its being."[2] In the case of the friary Chapter and of the individual, the criterion by which the action was judged was the "mode" in which it was performed. It was considered no sin to have recourse to a benefactor in one of the permissible modes; but it became an illicit act if they provided for the expenditure of the gift, or demanded an account of its expenditure from the deputy.[3]

Rights of succession and testamentary bequests also provided many difficulties in observance, which varied in degree according to the spirit of the period. A right of succession implied a radical right of property in the inheritance; so that the acceptance of a succession by any friar proved his vow to have been made under a material reservation, of itself a contravention of the Rule and statutes of the Order.[4] Never-

[1] 1st August 1331; *B. F.*, V. No. 921.
[2] *Regula Fratrum Minorum*, 824 (Hilarius). [3] *Exivi*, cap. VII.
[4] *Quod nullus ad Ordinem recipiatur nisi expropriatus omnino*," *Bonaventurae Op.*, VIII. 450, *Narbonne Constitutions*, cap. I.

theless, long before the golden age of Franciscanism had faded from memory, the friar is frequently met with in the character of heir, and we are forced to the conclusion that he did retain a civil personality for the benefit of the Chapter of which he was a member. That is, in the absence of any civil contract, which anticipated or otherwise dealt with the friar's legal or conventional share in his family goods at the close of his noviciate,[1] the disability under which he laboured had reference only to the Rule and the papal constitutions explicative of it. As in the case of annual rents, these modifications were preceded by privileged exceptions, and within forty years of the death of St. Francis, Clement IV. had come to consider the ungenerous attitude of the Seculars[2] sufficient reason for permitting the friars to succeed to property, in exactly the same manner as if they had remained in the world.[3] This privilege was a perfectly general one, making no exception of feu rights or other permanent sources of revenue, and during the brief pontificate of Celestine V. it was supplemented by another reactionary constitution which ordered every friar, who had the right to do so, to make his will within three months after he had entered the Order. In the natural course of events these modifications were vigorously attacked by the *Zelanti* during the reaction in favour of the strict observance; and the justice of their allegation—that the friars had not only allowed, but also had caused themselves to be instituted as heirs—was fully recognised by Clement V., who declared that "they could acquire nothing, either for themselves in particular or for their Order in common," and they were, therefore, incapable of accepting any succession, or the value of any heritage if left to them in the form of a legacy, or so large a part of it as might give the appearance of fraud.[4] This endeavour to promote pure discipline was attended with little success, and the indulgences permitting practice at variance with the prohibition were homologated

[1] *e.g.* Friar Hugo, *supra*, p. 184.

[2] *Infra*, p. 456.

[3] *Obtentu divini nominis*, 12th February 1266. The same privilege had already been granted to the Claresses in reply to the petition of individual convents, *e.g.* Innocent IV., *Devotionis vestrae*, 21st April 1248.

[4] *Exivi*, cap. IX. The question of succession was not considered in the *Exiit*.

in the constitution of Sixtus IV., which permitted the Conventual friars to succeed to parents and relations as heirs *ab intestato*.[1] This privilege was confirmed in the Bull of Concordance, to be expanded in 1540 so as to permit a friar to be instituted the heir of a stranger;[2] and Observatine friars, who desired to avail themselves of this privilege, in spite of the fact that they had been expressly excluded from its provisions by Sixtus IV., joined the Conventual branch of the Order. As a matter of discipline, the device was declared inept, and their disability to accept a succession reaffirmed.[3] The institution of a friary, or the Warden on its behalf, as heir or residuary legatee under the will of a stranger was an exceptional case. In 1374, a Franciscan Warden and a Dominican Prior were jointly instituted heirs, failing certain substitutes; and, when the succession eventually opened to them, they were permitted to enter into possession on account of the hardness of the times, the paucity of alms, and the oppression of debt.[4]

Legacies were considered on the same footing as other eleemosynary grants; and, for that reason, they were treated in a more liberal spirit of interpretation than other proprietary rights. Acceptance was justified on the ground that the fraternity might have shared in the generosity of the testator during his lifetime, and that, while he had been at liberty to vary or revoke the grant in its favour, the *mortis causa* donation represented his final intention in regard to the particular friary.[5] The substance of the bequest and the manner of its bestowal alone determined acceptance or refusal. In early history, gifts which resolved themselves into permanent sources of revenue, or tended towards excess in service ornaments and decoration of buildings, were considered inconsistent with moderate use.[6] A house or a field might be

[1] *Licet nos dudum*, 7th August 1475. In regard to property acquired by a friar, as heir or legatee, His Holiness declared that the Roman Church was his heir, for behoof of the Friars Minor—"let it fill the place of sons, as do monasteries having property in common." Sixtus IV., *Dum fructus uberes*, 28th February 1471.

[2] Paul III., *Exhibita nobis*, 27th October 1540.

[3] Alexander VI., *Cum intellexerimus*, 5th April 1502.

[4] Gregory XI., *Sincerae devotionis*, 28th February 1374.

[5] *Regula Fratrum Minorum*, 872 (Hilarius).

[6] *Narbonne Constitutions.*

handed over to the executor for sale, and application of the price to the needs of the friary; whereas the same gift could not be accepted if the house or the field were bequeathed directly to the friars for the purposes of lease or cultivation with a view to sale of the produce.[1] The executor, therefore, represented the "interposed person," with a continuing mandate that he was not at liberty to ignore; and the syndic was appointed with the dual purpose of administering the gift and ensuring due fulfilment of the testator's intentions.[2] The presence of these intermediaries resulted in a gradual extension of the modes in which the bequest might be made, until Leo X. sanctioned the acceptance of annual rents by the Conventuals, and explained, in regard to the whole Order, that the adornment of divine service was consistent with Franciscan poverty and simplicity, inasmuch as the ornaments did not increase the bodily comfort of the friars, who were merely custodiers on behalf of the Holy See.[3] Like his predecessors, Sixtus IV. recognised the underlying principle of common ownership in the declaration that all gifts and donations to the friars or their friaries, *inter vivos* or *mortis causa*, absolute or conditional, were made to the Roman Church with reference to the Franciscan Order, although the legatee was not a member of the Order at the date of the bequest.[4]

While the corporate conscience became thus blunted, that of the individual remained keenly sensitive in its obedience to the Rule. It was the actual life of the friar that invested the vow of poverty with an aspect of reality; and he never was encouraged to modify its main characteristics. From the day when he was received into the fraternity in the provincial or friary Chapter, he ceased to have any personal interest in the world's goods, and never could thereafter say "that thing is mine."[5] The cardinal con-

[1] *Exiit*, cap. XIII. This distinction early fell into desuetude, and during the fifteenth and sixteenth centuries both the Conventuals and Observatines acquired adjoining lands either for cultivation or extension of the friary buildings.

[2] Chapter XIII.

[3] *Merentur vestrae*, 3rd January 1514.

[4] *Dum fructus uberes*. The last clause doubtless refers to novices.

[5] A convincing proof of honest doubt is offered by the controversy which

dition imposed upon the entrant was an absolute abdication of property; and anxious provision was made to ensure freedom of choice to the novice when he took the tripartite vow required of him. The Chapter was also directed in unequivocal language to abstain from all interest in his property, and to place no impediment in his way if he desired to return to the world, or to enter another Order at the close of his probation. Again, it was forbidden to give the novice any assistance in devising a scheme of disposal, beyond suggesting the name of some God-fearing man with whom he might consult; but as the friars could receive alms like other poor, a share of his property might be accepted, if it were of small value, and insufficient to raise any suspicion as to the motives of acceptance or of his admission into the fraternity. The cases of Friar Hugo and John Fleming, the pauper of Haddington, indicate that the Scottish Conventuals transformed this permission into a recognised condition of admission into the Order; but the custom followed by the Observatines can be spoken of with less certainty, as the only case appearing in our records is that of James Baxter, who was the rentaller of the Archbishop of Glasgow in the lands of Haghill before he took the habit.[1] In this case, it is certain that the Chapter acquired no proprietary interest in the lands from the entrant, and the abandonment of his brother's succession in 1560 illustrates the manner in which the Observatines complied with the veto contained in the *Cum intellexerimus* of Alexander VI.[2]

After his noviciate and final choice of the Franciscan habit, the friar shared equally in the slender or relatively abundant resources of the convent; but he could have no private hoard outside its walls wherewith to supplement an insufficient diet or to clothe himself in greater comfort. The penalties inflicted upon the *frater proprietarius* were severe—expulsion from the Order, imprisonment, punishment *probationis caputio*, or burial

agitated the fraternity in relation to the ownership of a book written by a friar. The final decision given by Clement VIII. provided that this purely personal possession might be gifted by its author, if no conditions of the nature of sale or exchange were attached to the gift.

[1] *Supra*, p. 348.

[2] *Supra*, p. 448.

in profane ground, even if he had devoted his pecuniary interests or share in the family succession to furnishing the convent with candelabra, vestments, and other ornaments.[1] Absolution from this sin of "proprietary detention of things" could only be granted by a Provincial Vicar, or one holding higher office; and the delinquent was invariably deprived of all his books and of his office, if he had been chosen as a confessor or preacher.[2] To carry money, retain it in his cell, place books beyond the reach of his brother friars, or secure the preservation of any kind of property in the hands of laymen,[3] sufficed to inculpate the friar; and if, as a citizen, he became possessed of property in any form, the only means of avoiding the sin of ownership was to acquaint his Warden of the windfall. Thereafter, the slender interest that might persist between the friar donee and his gift depended on the decision of the Warden, who had authority to apply it in the purchase of books, or to provide otherwise for the furtherance of his studies, if he considered him a man of ability.[4] At the same time, so long as he remained a member of the Order, none of the things placed at his disposal for the purposes of study, work, clothing, or the celebration of the divine offices, were ever considered to belong to him; and, if promoted to the rank of bishop, the quondam friar was bound to return to the Province, Custody, or Friary, everything which he had received from it. After the close of the thirteenth century, a friar is, therefore, never to be met with as a testator, until he was automatically absolved from the vow of poverty on his promotion to high office in the Church. In the episcopal palace or parish manse he could acquire property as the fruits of his own industry, and receive authority from the Pope to execute a will like other laymen, a privilege readily granted to him, and frequently accompanied by an

[1] *Justis et honestis*, 25th March 1427; Chapter General, Assisi, 1430; *A. M.*, *sub anno*, X. 153–155; *Pervigilis more pastoris*, § 9, 27th July 1430; *M. F.*, II. 102.

[2] *Narbonne Constitutions*, cap. VII.; *Bonaventurae Op.*, VIII. 457.

[3] *M. F.*, II. 90.

[4] *Redemptor noster.* Schemes of division of legacies to friars required the homologation of the Chapter to which they belonged, and were frequently sanctioned by papal rescript, *e.g. Tua nobis devotio*, 2nd December 1295, the division of the books which had been given to Friar Raymond Gaufred by his friends and relations.

exhortation to act in a generous spirit towards his Church in the disposal of his goods. Thus, in the case of John Weld, an English friar, who had been appointed a papal chaplain, faculty was granted to the Collector in England to make a composition with the executors under his will, to exact and give acquittance for the sum agreed upon, and to sell his books and send the moneys to the Camera.[1] In these cases no objection was offered to the nomination of a simple friar as executor, although it was an appointment which he was strictly forbidden to accept,[2] on the ground that it involved active participation in business affairs. They were, however, permitted to act as executors under the wills of distinguished testators, and, occasionally, of those of a father or other near relation.[3] The Observatine friars of St. Andrews were appointed executors of the will of the Bishop of Orkney by Gavin Dunbar, then Bishop of Aberdeen;[4] and Alexander Patterson, Warden of the Stirling Friary, was appointed to the somewhat unique position of "overseer of the executors" of a testator who had bequeathed the surplus of his estate for pious purposes, to be applied in accordance with the directions of his executors *and the overseer*.[5]

[1] *Cal. Pap. Reg. Letters*, IV. 263.
[2] *Exivi*, cap. XII.
[3] *A. M.*, V. 233, VI. 526; *B. F.*, VI. No. 1786.
[4] Laing, *Charters*, No. 368.
[5] *MS. Commissariot Records of Dunblane*, G. R. H., *supra*, p. 372.

"The Dead Poverello," by Zurbaran.

CHAPTER XIII

PROCURATORS AND SYNDICS

THE institution of this office was a necessary corollary to the theory of Franciscan poverty. It might even be said to be the natural evolution of the tacit admission by St. Francis, that it was impossible to dissociate the actual administration of the Order from the ordinary business affairs of life.

The fourth chapter of the Rule of 1223 admitted recourse to "spiritual friends," in so far as was necessary for the care of the sick and for the clothing of the friars. That is to say, while the Superiors of the Order could not receive or employ money for these purposes, they might avail themselves of the assistance of laymen who were in sympathy with their work. This concession to practical exigencies was unconsidered in the first Rule, or in the proposed Rule of 1221, and is to be ascribed to the influence of the Cardinal of Ostia, who reduced the lengthy and inspired compilation of St. Francis to the proportions of the orderly constitutions that were customarily issued by the papal chancery. In course of time the idea assumed a more definite shape. The office came to be regarded as self-imposed, and to be associated with certain individuals in certain localities, who provided for the needs of the friars out of their personal fortune, or harmonised the generous intentions of other benefactors with the provisions of the Rule dealing with money and property.[1] In this aspect, they appeared as "interposed persons" in the *Quo elongati* and succeeding interpretations of the Rule, thus tersely justified by St. Bonaventura: "The rich man can provide for their needs by his own hand, or by that

[1] *Infra*, p. 470. Spiritual friends as hosts of the friars.

of his servant. If his servant cannot provide for the friars, there is no reason why the master cannot avail himself of a third hand, or even of a tenth hand. If, perchance, the rich man has no suitable food or clothing for them, may he not purchase the necessaries himself? Why, therefore, can he not hand the money to another for the same purpose? *Quis sanae mentis hoc dubitat?*"[1]

The generosity of laymen towards the fraternity in the form of pecuniary alms, raised doubts as to the suitable manner of accepting the same; if, indeed, acceptance were permissible. The prohibitions in the Rule appeared absolute. Subtlety of interpretation, influenced by the recent canon ordering private ownership to be merged into common ownership among the Orders in the Church,[2] fomented discussion within the Order; and the question was finally submitted to Gregory IX. In solution of the difficulty, His Holiness explained that the friars might put forward someone to expend the alms for their *necessary purposes*; that, without in any way transgressing the Rule, they might specify their needs to that person; but that they might not supervise his management, because he was the agent of the benefactor and derived no authority from them, although appointed in accordance with their suggestion. On the contrary, if the donor desired to revoke the gift, his substitute would cease to expend it on their behalf, as the gift remained the property of the donor until it was expended or consumed.[3] If a gift happened to be so revoked, the friars were directed to give thanks for the bestowal of it, but not to resent its withdrawal. In a word, they were bound to preserve a passive attitude in relation to the generosity of laymen, and to refrain from the vindication of any civil law rights arising out of the gift. Fifteen years later, a more liberal interpretation of the Rule transferred to the friar donees the right to control the actings of the "interposed person." Thereafter, those who followed a laxer observance acquiesced in the

[1] *Opera*, VIII. 332.

[2] *Concilium Trevirense*, 1227, cap. XIII.; Labré, *Collectio*, XXIII. 35.

[3] *Quo elongati* and *Ordinem vestrum*, *re* "necessary" and "useful" purposes. Restated in greater detail, *Exiit qui seminat*, cap. 6.

syllogism which established a definite relationship between the Order and civil law rights, abandoned the indefinite compromise effected by resort to the "interposed person," and came to regard the Procurator as the legitimate defender of their interests in accordance with their discretion.[1]

The office was not indigenous to the Order of Minors. It had already been attended with satisfactory results in the case of the Claresses, on whose behalf the guild of merchants and consuls of a town had been entrusted with the duty of accepting the goods offered to them, collecting the rents, and utilising them for the needs of the nuns.[2] At this date, 1233, the Claresses lived under the Rule which St. Francis had drawn up for St. Clare, and, like the Friars Minor, could not own any property; but, under the less stringent declaration of their Rule, 18th October 1263, they were permitted to become owners of rents and possessions in common,[3] and the purpose in sanctioning the continued use of Procurators was, that their affairs might be managed by efficient men of business, subject to their approval and to an accounting with the Visitor. In the case of the Friars Minor, however, the continuance of the office was due to the persistent conflict between theory and practice in the management of property. Moreover, as the submissive spirit of St. Francis became a shadowy reality, the fraternity was gradually permeated by a desire to vindicate the few rights that it possessed; and, in face of ungenerous provocation by executors and the churchmen, its members frequently yielded to that most human of desires. They could not appear in the law courts in support of any claim, however just, with the result that the last wishes of testators were commonly ignored by the

[1] Innocent IV., *Quanto studiosus*, 19th August 1247. *Infra*, p. 457, n. 3.

[2] Gregory IX., *Significante dilecto filio*, 21st September 1233. The theory had also been put into practice in the case of the English friars, as early as 1226, by testators who assigned their lands to the communities of the towns for behoof of the friars who were unwilling to appropriate anything to themselves. *M. F.*, II. 17, 18.

[3] Urban IV., *Beata Clara*, 18th October 1263, cap 21. In 1457 certain Observatines refused to receive some annual rents on the ground that their acceptance was contrary to the Rule; and it was decided that these rents should be handed over to the nuns of St. Clare, who could lawfully accept such things "*in jus proprietatis ac usum perpetuum.*" *A. M.*, XIII. 487.

executors, who pleaded in excuse of non-payment that the friars were *incapaces legatorum*,[1] or by the churchmen, who frequently claimed the legacy for themselves on the ground that it was a gift to the Church, and that the friars could accept nothing as they were "dead to the world."[2] Thus, in 1238, the good offices of an archbishop were solicited by Gregory IX., to enable the friars to enter into possession of what was known to belong to them in respect of pious donations and last wishes;[3] and heirs and executors were frequently enjoined by papal rescript to carry out the testator's intentions in this respect.[4] To anticipate, a more drastic remedy was adopted by Gregory XI. in 1375. On the narrative that, owing to the impediments raised by heirs in the payment and delivery of legacies, the *Custodes* were often forced to relinquish the grant or resort to tedious litigation, he ordered all judges ordinary to give judgment in the suit of a Custos, or his Procurator, within two months from the date on which it was brought to their knowledge, through public instruments or by competent witnesses, that such legacies or grants had been left to a friary.[5] Again, the preamble of the *Exultantes*, and relative constitutions authorising the appointment of Procurators, explicitly states that the enforcement of payment of legacies was the principal purpose for which the office was instituted;[6] and lastly, Clement VII. granted permission to Provincial Ministers or Wardens, along with certain discreet friars of the convent to which the legacy had been left, to compound with heirs and executors.[7]

In addition to obtaining assistance towards securing payment of legacies, during the years which followed the death of St. Francis, constant recourse to the papal chancery was also necessary for sanction to everything of the nature of a business

[1] St. Bonaventura, when Minister General, explained that the friars of themselves might denounce any such failure to the Ordinary, as "the injury of the deceased," but that they were not allowed to make any judicial demand for payment.

[2] Clement IV., *Obtentu divini nominis*, 12th February 1266.

[3] *Sicut nostris est.*

[4] *B. F.*, II. 26, No. 34. Nicolas III., *Exiit*, cap. XI. § 3, addressed a general admonition to laymen and the prelates to act generously in the execution of wills.

[5] Gregory XI., *Sedes Apostolica pia*; 10th January 1375.

[6] *Exultantes* of Martin IV., Boniface IX., and Martin V.

[7] *Nuper pro parte*, 23rd November 1526.

transaction, as provided in the *Quo elongati*. Exchanges or sales, however trifling, could not proceed unless by the sanction of the Cardinal Protector;[1] and, with the rapid expansion of the Order throughout Europe, this excessive centralisation was quickly found to be a severe tax. It was recognised that some form of delegation had become necessary. The Franciscan movement had emerged from its stage of adolescence, and demanded the privileges of lusty manhood in the management of its affairs. To effect this purpose, and to provide for the "*serenitas conscientiae*" of the friars, the institution of Procurators was decided upon in 1240, when Gregory IX. authorised the Provincial Minister and Custos of Assisi to appoint a Procurator to act on behalf of that friary, without, however, in any way defining the authority under which he was to act.[2] Five years later, Innocent IV. adopted the privilege as a natural corollary to his *Ordinem vestrum*, and authorised the Minister General and Provincial Ministers to select for the office certain fit and God-fearing men, who, "for the needs of each of the places, may freely sue for, sell, commute, alienate, contract, expend or exchange, in virtue of our authority, the things thus granted, or that may be granted, and to apply them to the use, necessities or commodities of the friars, according to your direction and as you shall think fit, having regard to the place and time."[3] The Procurator was thus identified with the particular Chapter to which he was attached, being recognised as the guardian of its rights in the law courts, and the general administrator of its temporal affairs; but, distinct from the interposed person, his administrative powers were derived from the Holy See, and his administration subordinated to the discretion of the Ministers who had selected him. This radical change in the official attitude of the Franciscans towards mundane affairs[4] not unnaturally provoked the most strenuous opposi-

[1] *Quo elongati.* [2] *Cupientes nobis*, 13th December 1240.

[3] Innocent IV., *Quanto studiosus.* This constitution is variously dated by Wadding and Sbaralea, August 1245 and 1247, with the addition by Wadding that it was re-issued in September 1247, although in the *Regestum Pontificum* he places it under the year 1247. *A. M.*, III. 141, 165.

[4] Earlier instances of the use of the word *Procurator* in relation to the affairs of the friars are to be found; but, in such cases, it is applied in a different

tion on the part of those who favoured the strict observance, while the coincidence between the formal institution of the office and the extension of the Gregorian interpretation to *useful* as well as *necessary purposes*[1] still further increased their fears for the future of Franciscan discipline. Friar William, Provincial of Nottingham, was, therefore, enabled to induce the Chapter General at Metz or Genoa (1249 and 1254) to suspend the relaxations introduced by Innocent IV. in his leading constitution, and "to destroy" the privilege permitting them to receive money through Procurators.[2] In spite of this decision, which was reversed at some date prior to 1260,[3] the employment of Procurators under the style of "apostolic syndics," nevertheless, became general, and influenced a laxer observance of the Rule, through the vindication of claims in the law courts, the placing of offertory boxes in their churches, and the acceptance of the money so received. All doubts as to their rights in the details of administration were set at rest by Innocent IV. and Alexander IV., who issued general confirmations approving of the past and future acts of those appointed by the Cardinal Protector at Rome "on their behalf, for their affairs and with their consent,"[4] and enjoined the citizens not only to assist them in their office but also to prevent them from being unduly molested in the discharge of their duties. Twenty years later, Nicolas III. issued the *Exiit*, which was, in effect, inconsistent with the privilege granted by Innocent IV. This constitution[5] restated in detail the provisions relating

sense. Eccleston speaks of Friar Salamon as the Procurator of his convent during his noviciate, in the sense that he was specially deputed to beg and procure alms (*M. F.*, I. 10, 11). In 1225, one, Henry, was given as Procurator to the friars by the burghers of Erdfordia, to supervise and arrange their establishment in the burgh (*A. F.*, I. 13); while a more perplexing notice occurs in the *Chronica Glassberger*, to the effect that, on 20th February 1244, at Nuremberg, Conrad, son of the Emperor Frederick, and King of the Romans, in reply to the desire of the friars, appointed a Procurator for them (*Ibid.* II. 66).

[1] *Quo elongati*; *Ordinem vestrum*.

[2] Eccleston, *De adventu Minorum*; *M. F.*, I. 32. Cf. *Archiv für Litteratur*, VI. 29–33.

[3] *Narbonne Constitutions*, cap. III., provided for the rendering of proper accounts by the Procurators. *Bonaventurae Op.*, VIII. 425.

[4] Innocent IV., *Cum a nobis*, 3rd April 1254; Alexander IV., *Cum dilectos filios*, 29th September 1259.

[5] Caps. 6, 7, 8.

to the use and disposal of eleemosynary grants by means of the "interposed person"; and it also provided that, as regards the books and furniture of which the Order had the use, the Minister General and the Provincial Ministers might sanction their interchange within the limits of their jurisdiction. But, if the question of price were involved, the conduct of the transaction was transferred to a Procurator appointed on their behalf by the Holy See, or by the Cardinal Protector in its name.[1] The early Observatines[2] and the Capuchins regarded this "limited resort" as the ideal compromise between the spirit of the Rule and the exigencies of administration, and consequently declined to avail themselves of the right to have permanent Procurators attached to their friaries in accordance with the *Exultantes* of Martin IV. and Martin V., which replaced the *Quanto studiosus* of Innocent IV.[3] Love of poverty and the submissive attitude of the founder were inconsistent with the militant spirit prompted and developed by these constitutions. Yet, in considering the evolution of so vast an organisation, it is well to remember the reflection of one Franciscan writer: "The Roman Pontiffs have on that account permitted different kinds of syndics, like different ways of observing the Rule, which Marchantius calls suitable or fitting to the circumstances, and which, therefore, vary in accordance with the period and the condition of each of the Minorite congregations, whether lax or strict; just as the rigour of fasting increases or diminishes according to the season or the country."[4] A mandate, in accordance with the twelfth section of the *Exiit*, was issued by Matthew, Cardinal Protector of the Order, on 26th February 1280, to Bishop Everhard of Münster, authorising him to appoint "Procurators as

[1] *Exiit.*, cap. 12. The *Quanto studiosus* was not expressly revoked by the *Exiit*; but it must be remembered that the latter was issued in the interests of discipline and of a purer observance. The intention of chapter 12 seems to have been to limit the use of Procurators to the cases provided for under that section, leaving the eleemosynary grants to be dealt with under the Gregorian interpretation.

[2] *Infra*, p. 470. Subsequent Observatine practice.

[3] An exceedingly interesting summary of the views expressed by the different Franciscan writers on this "degree of relaxation" has been made by Friar Hilarius in his work, *Regula Fratrum Minorum*, 1870.

[4] *Regula Fratrum Minorum* (Hilarius), p. 630.

often and as many as you deem fit for receiving the proceeds of the sale of books or other movable property used by the friars."[1] This instrument, it will at once be observed, indicated a return to the stricter practice authorised by the Gregorian constitutions. It was addressed to the diocesan Bishop, and entrusted to him the appointment and subsequent control over the Procurator; but it omitted all mention of nomination by the Provincial Minister or friary Chapter. This unexpected interpretation of the section at once aroused the partisan spirit of the Order,[2] and letters were issued by Cardinal Matthew to the German Bishops, explaining that the nomination or removal of the Procurators could only be effected with the co-operation of the Provincial Ministers, and that the actings of the Procurators were subordinated to their direction and consent. The Minister General also appealed to the Pope, and thereafter communicated to the Provincials the explanation given by His Holiness, that a Procurator had not the right to carry out a sale without the consent of the Custos, or, in his absence, of the Warden and the majority of the friary Chapter.[3]

As already stated, in so far as it related to the use of Procurators, the text of the *Exiit* promised a return to the stricter observance in vogue prior to the year 1245;[4] so that the remedy provided by Nicolas III. was at once practical, and, with the goodwill of all parties, in harmony with their desire for a perfect observance of the Rule, in the sense that the Procurator was intended to be the deputy of the Bishop, and not the secular agent of the friary Chapter. He was a

[1] Instrument quoted *in extenso*, Schlager, *Beiträge*, pp. 81–82.

[2] In 1448 the Observatines received a similar instrument, under which the power of appointment was placed in the hands of the Bishop, "to be exercised with the consent of the friars dwelling in the convent for the time." *A. M.*, XII. 505.

[3] Schlager, *Beiträge*, p. 83. The Bishops evinced little goodwill in the discharge of this duty, and paid scant attention to the petitions of the Franciscans. Letter of Cardinal Matthew, text in *Regula Fratrum Minorum* (Hilarius), p. 163.

[4] It also served to counteract any lax practice which might have resulted from the *Voluntariae paupertati*, 5th November 1274, which sanctioned alienation and exchange of movable property with the license of the Minister General—"for things more necessary to them"—instead of by the sanction of the Cardinal Protector in accordance with the *Quo elongati*.

definite person in administration interposed between laymen and the fraternity; and, in relation to the scruples of the friars, he could logically be regarded as the "interposed person," whom every branch of the Order was prepared to accept as a necessary intermediary. Jealousy of privilege, however, defeated this intention, and section twelve did little to assist the friars towards a more sincere conviction that the "*expropriation*" which they professed was not repellent to the ideal of their founder.[1] On the contrary, the manner in which it was interpreted by them gave rise to the first authoritative and detailed definition of the Procurator's rights and duties in the disposition of convent accessories, and it was indeed far from disproving that idea of ownership in common which harassed the conscience of the intellectual Franciscan in those days.

Chaos quickly followed the promulgation of the *Exiit*. The number of Franciscan petitions and appeals to the papal chancery rapidly increased, reproducing the state of matters which had necessitated the issue of the *Quanto studiosus* in 1245. Martin IV. thereupon offered a solution of the problem from the utilitarian and practical point of view, by the issue of the *Exultantes in Domino*,[2] in which crudity of language dealt hardly with sensitive respect for the Rule. Slightly extended and generalised by Nicolas IV. (1290) and Martin V. (1419), this constitution remained the basis of all subsequent legislation in this direction, as well as the central point of one of the great controversies within the Order.[3] Proceeding on the assumption that the whole property of the Order belonged to the Holy See, and that it could not be managed without delegation, Martin IV. authorised the nomination of special persons—who were not members of the Order[4]—to act on behalf of each friary, and declared these

[1] Compare the relaxation introduced by Clement IV. in 1266 in the matter of intestate succession, and by Gregory X. in 1274.

[2] 18th January 1283.

[3] Franciscan writers in dealing with this subject have established three degrees of relaxation. A summary classification is: the syndic of Nicolas III. was *nulla relaxatio*; of Martin IV., *nulla vel parva relaxatio*, but, if he appeared in Court, *majuscula*; of Martin V., *magna relaxatio*, and became known as *pecuniarius*.

[4] Mr. A. G. Little gives one instance of an Oxford friar who acted as Procurator

persons, when so nominated, to be their actual and lawful administrators, syndics and agents. The privilege was thereafter discussed by the Chapter General of 1286, and the fraternity was warned against litigation, or any practice arising out of this privilege that might impair its fair name.[1] Despite this warning, which reflected the fears of those who distrusted the innovation, the constitution was soon to play an important part in the controversy between the *Zelanti* and the *Communitas*. The former, in their desire to maintain a rigid observance of the Rule, disapproved of the relaxations which it introduced; while the latter were not loath to enjoy the autonomy which it conferred upon them. It virtually freed them from direct supervision in their everyday affairs, with the result that in some parts of Europe litigation became a favourite occupation of the friars, until Ubertino issued his *Accusatio*[2] condemning this abuse. He deplored the fact that "love of poverty" had receded from their midst, and that "love of possession" had taken its place.[3] As a *Zelator*, it was easy for him to draw a striking contrast between the actions of the friars in 1310 and the precepts of the Rule; so that his picture of the secular and ecclesiastical courts, crowded with friar litigants immodestly clamouring after the manner of advocates against their adversaries, was doubtless exaggerated.[4] At the same time he was just, when he alleged that, although the actions were maintained through Procurators, it was the friars who were the real principals, seeing that they prepared the briefs for their notaries and advocates, collected money for their fees, and attended the court in person. A series of disciplinary canons was the

for his convent. So far as can be ascertained, the only Scottish cases relate to the Dominicans of Edinburgh: "Friar John Hew, Procurator of the Friars Preacher, in name of Friar John Lethane, son and heir of William Lethane, protested that a sasine granted to William Lethane, as son and heir of the said William Lethane, was null and void." *MS. Protocol Books* (Edinburgh), John Foular, III. f. 123.

[1] Chapter General, Milan: *Archiv für Litteratur*, VI. 55; III. 182.

[2] *Archiv für Litteratur*, II. 391; III. 54, 113.

[3] "*Amor paupertatis videtur vere recessisse a fratribus: in nobis crevit amor habendi.*" *Ibid.* III. 70.

[4] The Superiors of the Order refuted these charges at great length. Admitting that isolated cases had occurred, they pointed out that offenders were punished, and that severe statutes had been passed by the Order (Narbonne) for the suppression of these abuses. *Ibid.*

remedy provided for the abuses complained of in this accusation;[1] and, in his consideration of the prohibition against the acceptance of money, and of the position of the "interposed person" in relation to it,[2] Clement V. followed the form and spirit of the *Exiit*, concluding his interpretation with a declaration to the effect that any control exercised over the Procurator was a contravention of the Rule.[3]

Thus, although the *Exivi* did not expressly revoke the right to appoint Procurators, it was textually as inconsistent with the *Exultantes* as the *Exiit* had been with the *Quanto studiosus* of 1245; and the analogy between these two pairs of constitutions was strikingly completed by the fact that the theories reiterated in the *Exivi* were entirely at variance with the practice which followed upon it. It did not check litigation. Only eight years after it had been issued, John XXII. stated[4] that he considered it derogatory to the dignity of the Church to maintain incessant litigation, now in the secular, and now in the ecclesiastical courts, as well as before petty judges, for matters that were of trifling value. Furthermore, the ordinance[5] was founded upon a simulation, on account of which the prelates and rectors of the Church were forced to appear in opposition to their "head and mother," when the friars sought to vindicate their rights. Therefore, desiring no longer to share in the administration of the "fungible" property of the friars, and to provide for the peace of the whole Church, the friary Procurators were disowned by the Church and forbidden to act in its name in the vindication or administration of the offerings made to the Order. In this manner, John XXII. swept away the compromise effected by his predecessors in regard to pecuniary alms,

[1] *Exivi*, cap. 9.

[2] *Ibid.* cap. 8.

[3] *Ibid.* cap. 7, § 4: "*Quapropter, praecipere quod et qualiter pecunia expendatur, computumque exigere de expensa . . . hos actus et consimiles sibi fratres illicitos esse sciant.*" His veto against their having any interest in the fund at issue in a lawsuit was less explicit, and might be held to refer only to their actual presence in the law courts.

[4] *Ad conditorem*, 8th December 1322.

[5] This does not refer to the *Exultantes* of Martin IV., but to the theory developed by Nicolas III. in the *Exiit*, to the effect that a simple *usus facti* could be constituted in movable property, distinct from the right of ownership.

offerings and legacies given to the Order, and left the friars in the position of uncontrolled owners, at liberty to act and vindicate as they chose. He did not, however, refute the theory which justified the use of Procurators, in so far as it was consistent with legal principles, and therefore allowed them to continue to act as agents of the friars, and of the Holy See, in regard to the immovable property of the Order. This class of property, in which books and church ornaments were included as accessories, was expressly exempted from the constitution; and accordingly, in the *Exhibita* of Clement VI., the friary Procurator appeared in the ceremony of investiture in certain lands.[1] In 1395, Boniface IX., in reply to the petition of the Franciscans, re-issued the *Exultantes*[2] of Martin IV., but made no reference whatever to the revocation by John XXII., or to the controversy, *De paupertate Christi*, which led to it. Twenty-five years later, with the object of compelling heirs to make payment of alms and other grants left to the Order by will, Martin V. re-issued the *Exultantes*.[3] Eight years later, in the *Amabiles fructus* he expressly revoked the *Ad conditorem* without treating it argumentatively;[4] and in the *Declaratio*[5] he permitted the Chapter General at Assisi, presided over by the Cardinal-Legate Cervantes, to pass a series of constitutions known as the *Martinianae*,[6] providing that each convent might have its own Procurator to accept on its behalf all pecuniary alms bequeathed by will or otherwise, and, in general, everything that might be converted into money; so that the same might be applied to the repair of their buildings or to their other needs.[7] At the same time, Martin V. made anxious provision

[1] 12th August 1345.

[2] 15th February 1395; *B. F.*, VII. No. 148. The rubric of the constitution is "*Ut possint cogere heredes ad solutionem eleemosynarum in testamentis vel alias relictarum.*" In the same year, he restored to the Province of Germany the right to appoint Procurators, on the ground that they had been frequently deprived of legacies and gifts. *A. M.*, VII. 180.

[3] 18th January 1419; *infra*, II. p. 433.

[4] *A. M.*, X. 130; 10th November, 1427.

[5] *Ibid.* X. 162; *Cocquelines*, III. pt. ii. 466.

[6] Confirmation in *Pervigilis more pastoris*, 27th July 1430.

[7] *A. M.*, X. 150 *et seq.* The text of the *Martinianae* is to be found in the work of de Gubernatis, *De Orbis Seraphicae*, vol. III. This work is not in the

against the exaction or extortion of alms, and decreed that any friar or Superior of the Order who offended in this respect was *ipso facto* deprived of office.[1] The *Exultantes*, so re-affirmed, replaced the earlier constitutions, and was frequently re-issued in favour of the Conventuals by Martin's successors, one of whom declared that he was moved to grant the petition of the Minister General, because he knew, from the experience that he had gained while discharging that office, that the friars maintained themselves on the proceeds of uncertain mendicancy and meagre alms, while their devotion to study prevented them from attending to the maintenance of their convent buildings, which constantly fell into a state of dis-repair.[2] To the Procurator, his wife and children, Clement VII. extended "all and sundry indulgences, remissions of sins, and privileges which the Minors of Observance have and enjoy," and also exempted them from the jurisdiction of civil judges, declaring void and of no avail all sentences pronounced against them in violation of this inhibition.[3]

In theory, the Procurator was the delegate of the Holy See; but, as we have already seen, there were conflicting views and constitutions until the re-issue of the *Exultantes* by Martin V., when the Procurator was finally differentiated from the interposed person or temporal father, and was regarded as the substitute of the friars. In the initial constitution,[4] he was to act as the Minister considered expedient, having regard to the time and place; and in the *Exultantes* it was the Minister General, the Provincial Ministers, the Custodes, or the friars themselves who were to give the necessary assent to his actions. In course of time, as the idea of property in common was more explicitly recognised in

possession of the Library of the British Museum, and only two out of the five volumes now remain in the Bibliothèque Nationale in Paris.

[1] *Pervigilis more pastoris.*

[2] Sixtus IV., *Dum fructus uberes*, 28th February 1471; Eugenius IV., *Apostolicae sedis*, 1st May 1432; Paul IV., *Ex clementi*, 1st July 1555.

[3] *Dum consideramus*, 17th April 1526. This constitution represents the aggregate of the different privileges granted to the Procurators from time to time. In the thirteenth century, when the office was regarded as a spiritual duty, they were allowed to hear divine service in the friary church during times of general interdict.

[4] *Quanto studiosus*, 1247.

the text of the papal constitutions, and as the property which the Procurator was appointed to administer came to be regarded as belonging to, or at least permanently identified with, the individual friaries, the control of the Chapter became more definite. Under the *Apostolicae sedis* of Eugenius IV.,[1] he was bound to act in accordance with the advice and assent of the friars; in the constitution of Nicolas V., the power of sale was to be exercised with the consent of the friars dwelling in the convent for the time; and Sixtus IV. and Julius II.[2] provided similarly, but reverted to the general control expressed in the *Exultantes*. In brief, the Procurator was never allowed to act in accordance with his own judgment, nor on behalf of any individual friar—a striking example of the artificial conditions under which the Franciscans were compelled to live with regard to property. In deference to their Rule and to their conscientious scruples, the Papacy did not extend to them the right to act in their own affairs; but, when the affairs of others were in question, they were entrusted with the very duties which the Procurators discharged on their behalf. Consistently recognised as practical men, the Franciscans were entrusted with the duties of carrying through sales of property belonging to other Orders, the mandates generally providing that the sale should only proceed if the friars so nominated considered it was for the profit and benefit of the house in question.[3] In other cases, they were directed to examine and advise as to proposed sales; and, as inquisitors in cases of heresy, there are innumerable instances in which they were deputed to sell the goods of the heretic, and to retain the price as depositaries of the Roman Church.[4]

The general duties and powers of the Franciscan Procurator were to receive, in name of the Curia for the benefit of the friars, the things themselves or their equivalent values, to sue for, alienate, exact, transact and contract there-

[1] Also definitions by Bonagrazia, Minister General, 1281, and Cardinal Matthew (*supra*, p. 459), which were not expressed in a formal constitution, and were the interpretations adopted by the friars in practice.

[2] *Exponi nobis*, 1st October 1509.

[3] *Ex parte*, 5th May 1291.

[4] *B. F.*, II. 408. Laing, *Charters*, No. 358.

anent; to promise, remit, refute, act and defend, and to take the oath of calumny and verity, when necessary, with and against all such as might be in possession or occupation of movable or immovable property. It was also his duty to defend, within or without judgment, all the immunities, liberties, rights, privileges and indulgences of his constituents;[1] while Nicolas IV.[2] added the right to appeal and to prosecute appeals, and Martin V. extended his duties in relation to the acceptance of eleemosynary grants. He is frequently met with as intermediary in sales of ground, by or in favour of the friars. In cases of purchase, he appeared in the dual capacity of agent, acting on behalf of the friars in what pertained to their occupation and acceptance of the place, and as the specially constituted purchaser on behalf of the Pope, subsequently delivering over the price, and receiving the symbols of corporeal possession. Particular instances of his actings are also to be found in relation to the sale of books, making provision for the repair of the friary buildings, ingathering of rents,[3] furnishing reports prior to a sale, and compounding with heirs, which is probably the best example of their lack of initiative power. A transaction of this nature occurred in 1311, when the controversy as to a stricter interpretation of the Rule was at its height. The decision was taken by the Custos and Wardens; while its execution was handed over to the Procurator who received authority from the Pope, in reply to the petition of the lay cessionary, to assign the rents and to receive in return the sum agreed upon.[4]

The length of time during which a Procurator might hold office depended entirely on the will of those who had appointed him.[5] His appointment might be revoked as being prejudicial to their interests, on account of his own ill-

[1] *Exultantes*, Martin IV.

[2] *Religionis favor*, 22nd November 1290.

[3] The Observatines frequently renounced all interest in the rents which had been "identified" with a convent before it was handed over to them, and refused to admit that administration of them by secular agents justified the transgression of the Rule; *A. M.*, XI. 522, XII. 496, XIII. 487.

[4] *B. F.*, V. 180.

[5] *Quanto studiosus*; *Exultantes*; Paul IV., *Ex clementi.*

health, or for no stated reason—a necessary provision against the all too frequent cases of malversation. In 1260, it was provided that he should give up an account of his intromissions every fifteen days to certain discreet friars chosen by their brethren for that purpose;[1] and, in cases of a special appointment by the Pope, it was invariably stated that an account of intromissions should be given up.[2] At the beginning of the sixteenth century, laxity in administration had become so prevalent that Julius II. was compelled to provide a remedy, explaining in the preamble of his constitution that the Procurators had come to be considered as the actual owners of the properties which they had been elected to administer, they possessed them as their own proprietary goods, and disposed of them at their own pleasure and on their own needs. Moreover, if they happened to provide for those of the friars, they did so according to their own discretion, and failed to give up satisfactory accounts.[3] His Holiness accordingly provided for the rendering of yearly accounts, and extended the power of dismissal to the effect that a simple friar might remove a Procurator from his office, although appointed by a Superior, provided that the Chapter and Notary of the friary were in agreement with him. The duration of the appointment was limited to three years.[4]

Distinct from the Procurator *pecuniarius*, the control which might be exercised over the intromissions and actings of the "interposed person" was moral rather than legal. The friary Chapter was never permitted by the Canon Law to demand an account;[5] and the concession of Nicolas III., allowing them to exhort the "person" to discharge his duties faithfully, was the utmost limit of moral suasion. Various methods, which in theory did not amount to technical violations of the Rule, were devised to correct malversation of the slender resources of the friary. There was a "domestic and friendly" investigation of the quantity and destination of the alms received. The benefactor might also be informed

[1] *Narbonne Constitutions*, cap. III.; *Bonaventurae Op.*, VIII. 452.
[2] *e.g.* Eugenius IV., *Exigit devotionis*, 13th January 1444.
[3] *Exponi nobis*, 1st October 1509.
[4] *Ibid.*
[5] *Quo elongati*; *Exiit*, cap. VI. § 2.

of any breach of trust on the part of his substitute. If he were unknown, the facts might be brought to the notice of the Bishop or of the civil magistrate; and, to remove any appearance of appeal to a constituted authority, one Franciscan writer advised that this should be accomplished through the medium of a "prudent man," who, as Protector of the friars, should lay the case before the Bishop or magistrate. They were, however, bound to protest against any judicial claim being made on their behalf; and, in every case, it devolved upon the Warden of the friary to direct the relations of the Chapter with the intermediary and to explain his duties to him, seeing that laymen did not possess an intimate knowledge of the Rule.[1]

The rise of the Observatines revived the same doubts and misgivings that had weighed upon the devout Conventual in the thirteenth century. The validity of the appointment of Procurators was again contested, and doubts were put forward whether the legacies really devolved to them, to be administered in the name of the Church on behalf of the friars. Pope Sixtus IV. declared that there could be no doubt upon this point; but the early Observatines did not acquiesce in his views. To remove the doubts of the Conventuals in relation to the "interposed person," put forward to provide for their *necessary* and *useful purposes*, Gregory IX., Innocent IV. and Nicolas III. issued categorical declarations that the friars did not transgress their Rule in having recourse to such persons, especially if they had been negligent in providing for their own needs.[2] Two centuries after Procurators had replaced the "interposed person," the same questions were debated, and the same reproaches were levelled against the Order by churchmen and laymen alike. Clement VII., therefore, declared in 1530 that the friars did not transgress their Rule in having recourse to Procurators, because, in so doing, they appealed to spiritual friends: and, as a last resort, he added the less convincing argument of a threatened excommunication against all who presumed to defame or calumniate the friars on account of this

[1] Albertus à Bulsano, *Expositio Regulae Fratrum Minorum*, pp. 226–31.
[2] *Quo elongati*; *Ordinem vestrum*; *Exiit.*

custom.[1] This assimilation of Procurators to spiritual friends was, however, no more than a specious repetition of the phrase. A spiritual friend, unlike the Procurator, never acted *ex officio*; and, in the sixteenth century, the laymen who actually corresponded to the spiritual friends of the thirteenth century were the "Hospes" and the "Pater spiritualis." Laymen or churchmen with whom the friars lodged, and who provided for their general needs during their wanderings, became known as "hosts of the friars," from the recognised custom in the brotherhood of lodging in a particular house in any town where they happened to be;[2] and the spiritual or temporal fathers were laymen who resided in the vicinity of the friary, and evinced an active interest in its affairs by the bestowal of alms in a suitable form, or by providing for building improvements, repairs and friary plenishings. Ladies who took a similar interest were known as "Matres Spirituales," or as "Marthas" when they actually worked for the friars with their own hands, weaving and fashioning habits, or otherwise.[3] The Observatines reverted to the practice of the Conventuals in the use of Procurators, and their privilege of deputing persons, who were not members of the Order, to exact holy legacies, transact other business, and defend their privileges, was re-confirmed shortly before the Scottish Reformation,[4] although it remained a dead letter so far as the Scottish Observatines were concerned.

There were three grades of Procurators in the Order; the ordinary or special Procurator attached to each of the friaries, the Provincial Procurator, and the Procurator General.

[1] *Vacantibus*, 19th September 1530.

[2] *e.g.* Master William Ogilvy, Chancellor of Brechin, and Sir John Leis, "chaplain and one of our brotherhood," successively entertained the Aberdeen friars when they halted at Brechin (*supra*, p. 337). It was provided in the Chapter General at Padua (1276) that, during the Octave of St. Francis, a private mass should be said by every priest, fifty psalms by the clerics, and one hundred Pater Nosters by the lay members, for the hosts who entertained the friars on their journeys. *A. F.*, II. 89.

[3] *Ob. Chron.* An interesting instance is given by Father Schlager, *Beiträge*, p. 84. A house was handed over to the Mendicant friars in Essen, in which definite rooms were assigned to the different Orders. Rooms were provided near the house for two "Marthas" who were to care for all equally.

[4] Paul IV., *Ex clementi*, 1st July 1555.

CHAPTER XIV

MANUAL LABOUR

The injunction regarding manual labour is a characteristic but imperfectly understood feature of the Franciscan Rule.

"Let those friars, to whom the Lord has given the grace of working, labour faithfully and devoutly in such wise that, while they abolish idleness, the enemy of the soul, they do not extinguish the spirit of holy prayer and devotion, to which all temporal matters should be subservient. Let them receive the necessaries of life, but neither coin nor money, as the reward of their labour, and that humbly as becomes the servants of God and the followers of most holy poverty."[1]

In the infancy of the Franciscan movement, the imperfections of the monastic system were amply recognised by those concerned in the government of the Church, and consequently St. Francis was a strenuous advocate of the active as opposed to the contemplative life varied only by the performance of the offices of the Church. A safeguard for the maintenance of the ideal among a body of men suddenly removed from their ordinary occupations had to be found. Mendicancy was a natural corollary to the profession of poverty, and so the native genius of its formulator, visionary though he was, chose manual labour as the most certain antidote to apathy. He elevated work to the rank of a Christian duty, and never relinquished the desire to impress his own keen, active, spiritual temperament upon those who elected to enter the fraternity. Looking to the then accepted ideas of a religious Order, this precept was scarcely less revolutionary than that which enjoined a life of poverty, and was succinctly expressed in his Testament: "I was wont to labour with my hands, and I wish still to labour; and I earnestly desire that every

[1] *Solet annuere*, cap. V.

friar may work at some honest task. And, as for those who know not how, let them learn to work, not from a desire to receive the price of their labour, but to shew a good example and to eschew idleness."[1] The meaning of the fifth section of the Rule, and of this clause in the Testament, now forms one of the minor Franciscan controversies, just as it did in the thirteenth century. Did St. Francis intend to create a labouring or a mendicant Order? Or, were the Franciscans at liberty to work or to beg as it pleased the individual? It seems clear that both of these precepts were subordinate to their first duty, which was the service of religion in the broadest sense of the word, whether as priest, preacher, missionary or friend of the sick poor; but the distinguished biographer of St. Francis inclines strongly to the view, that St. Francis intended to create a labouring Order. "The Portiuncula," he writes, "was a workshop where each brother practised the trade which had been his before entering the Order; but, what is still more strange to our ideas, the friars often went out as servants"; and he thus interprets the section: "The intentions of St. Francis have been more misapprehended on this point than on any other, but it may be said that nowhere is he more clear than when he ordered his friars to gain their livelihood by the work of their hands. He never dreamed of creating a *mendicant* Order, he created a *labouring* Order. It is true, we shall often see him begging and urging his disciples to do as much, but these incidents ought not to mislead us; they are meant to teach that, when a friar arrived in any locality and there spent his strength for long days in dispensing spiritual bread to famished souls, he ought not to blush to receive material bread in exchange. To work was the rule, to beg the exception; but this exception was in no wise dishonourable. Did not Jesus, the Virgin, the disciples, live on bread bestowed? Was it not rendering a great service to teach charity to those to whom they turned for assistance?"[2] On the other hand, it seems scarcely logical to interpret the precept concerning manual labour in such a manner as to override the other

[1] Testament, *Seraphicae Legislationis*, *infra*, II. p. 391.
[2] *La Vie de St. François*, p. 138.

sections of the Rule. In the text, mendicancy, spontaneous charity and work, rank *pari passu* as a means of subsistence; and the limits of casual labour as a means of supporting a whole race of friars must have been easily perceived. The case was far different with members of the Third Order, who might indeed be said to belong to a purely labouring Order; and it must be admitted that the intangible impression conveyed by the Rule of the Friars Minor, and the life of their leader, conflicts with the theory that they were meant to be a labouring Order.

Whatever may have been the intentions of St. Francis, the friars uniformly interpreted the injunction as a direction to avoid sloth, without in any way considering themselves bound to manual labour. A gradual change in the composition of the Order followed his death, so that, with the rapid increase of the clerical element and the inevitable recognition of study as the primary duty of the preacher and confessor, there were many forms of work which complied with the fifth section of the Rule. The student, the writer, the attendant on the sick, and the friar-procurator who begged alms, were workers in the same sense as the friar who pursued a trade. St. Bonaventura thus interpreted the Rule in the Narbonne codification, adding that St. Francis never earned twelve pence by the work of his hands—"Every friar is to be compelled by his Superior to occupy himself in writing, study, or other suitable form of work"; and the views of this great administrator must carry weight in the decision of this question. He categorically asserted that manual labour was not obligatory;[1] and it must not be forgotten that Friar Bertrand of Bayonne, with the approval of the Holy See, vigorously refuted the contention of the secular theologians that the friars were bound to manual labour.[2]

In this country, the rare glimpses that we catch of the friar in the rôle of labourer are insufficient data on which to base any theory; but, in outline, it is possible to form

[1] *Opera*, VIII. 320, 334, 455. Cf. *Exiit*, cap. XVI.; *infra*, II. p. 415.

[2] *Supra*, p. 411. This definition of manual labour was accepted by Nicolas III. in the *Exiit*, and remained the authoritative interpretation of chapter five of the Rule until the Reformation.

some idea of the extent to which the community contributed to its own support by the manual labour of its members. The friar was essentially his own servant, and he was bound to share in the domestic drudgery of his home, in an age when material comforts were represented by the barest necessities of life, and too often fell short of the standard of decency accepted in our day. The friars of Aberdeen had, at one time, their "Martha"; and, on occasion, the King defrayed the cost of washing the clothes and surplices of his favourites, the Observatines of Stirling. In other cases, the domestic arrangements were entrusted to the friars in rotation; and the Summons of Spuilzie purchased by the Black Friars of Perth doubtless offers a typical description of the manner in which the brethren left their morning stew simmering in the great kettle while they performed an early mass. The vegetables for this and other dishes were naturally furnished by the friary "kaill yard," which they cultivated in accordance with the injunction of St. Francis to sow vegetables and other useful plants.[1] This plot is the most consistent adjunct of the friary to be met with in our native records. In Lanark, an acre in the burgh roods was specially acquired for the cultivation of these necessaries, and the Stirling friars received forty-four shillings by the Regent's command in 1546, "for thair kaill distroyit and down tred by mennis feete."[2] The orchard is less frequently noticed, but it was a distinctive feature of the friary glebe at Dumfries, and from that of Jedburgh the friars gratified the request of their young king by offering him a plate of cherries.[3] The garden also claimed the attention of such as appreciated their founder's poetic injunction, to reserve one corner of good ground "for our sisters the flowers of the field."[4] In Dumfries, the friary garden gladdened the eye of the traveller as he passed up the Vennel, after handing the vigilant friar his toll for the passage of the bridge; and at Aberdeen the general garden on the north side was distinct from that of the

[1] *La Vie de St. François*, p. 180.

[2] *Treasurer's Accounts*, 12th June 1546.

[3] *Ibid.* 21st July 1526.

[4] "Nature was to him instinct with life and with the joy of an ever-present divinity. His poet mind saw no division between animate and inanimate in nature." *Homes of the First Franciscans in Umbria*, B. D. de Selincourt.

Infirmary. A portion of this ground would also be devoted to the cultivation of herbs to fill the medicine chest of Warden Crannok and of the indefinite number of friars, who are referred to by Father Hay as practising the healing art by the laying on of hands.

> "O, meikle is the powerful grace that lies
> In herbs, plants, stones, and their true qualities,"[1]

wrote the great dramatist in his description of Friar Laurence issuing from his cell in the early morning to fill his basket with simples.

If the produce of the garden were devoted only to these purposes, practice was not wholly at variance with the theories of the Golden Age. But it is to be feared that abuses owed their origin to the administration of Haymo of Faversham,[2] who was guilty of yet another Franciscan heresy, in his desire that the friars should have ample areas to cultivate so that they might have the fruits of the earth at home rather than be obliged to beg from others.[3] It was contrary to the spirit of the Rule to write a manuscript or to cultivate produce for sale, and thus we find the Chapters General of 1304 and 1316[4] ordering the destruction or sale of vines, which supplied the friary with wine and augmented its revenues from the sale of the surplus. Between these two Chapters, Clement V. defined the permissible use of garden ground, allowing it as reasonable that they should have gardens for meditation and repose and for supplying their own needs. But cultivation with a view to sale of the produce was an illicit use, and land beqeathed as a legacy for this purpose could on no account be accepted, because it was equivalent to a gift of permanent endowments.[5] The fourteenth century, however, witnessed the final subordination of this idealism to the practical exigencies of life; and neither the Conventuals nor the Observatines obeyed the letter of the Rule in regard to the cultivation of their glebes. As we have already seen, each of the Conventual friaries in Scotland

[1] *Romeo and Juliet*, Act II. Sc. 3.
[2] Provincial of England, 1238–39.
[3] *M. F.*, I. 34–35.
[4] Assisi and Naples, *A. M.*, VI. 39, 245.
[5] *Exivi*, cap. XIII.

received gifts of arable or grazing land, and Edinburgh may not have been the only Observatine friary which derived a profit from agricultural pursuits. A typical instance of the friar in the rôle of small farmer is preserved in the extant records of the Dominican Priory at Perth.[1] These friars cultivated their lands and crofts, owned their privilege of mills, and sold their bear, beans, oats, wheat and the hides of their flocks, like other producers; and, out of the sales of grain, they set aside a small part for a purpose designed as "the charity."[2] Considering the analogy between the two Orders in this country, it is only natural to suppose that the Franciscans farmed their less extensive lands for profit, although we have but one recorded instance of sale of produce by the Observatines.[3] In Haddington and Dundee the crops were in full cultivation at the Reformation. Concerning Roxburgh and Lanark we have no definite information, and the friars of Kirkcudbright and Dumfries had abandoned cultivation by the year 1550, receiving a fixed rent from their tenants in place of the crop that was frequently harvested by the common enemy. Where grazing ground was attached to the friary—Dundee and Kirkcudbright—a similar course was followed, and it was in ignorance of this practice that Wharton wrote of the friars in Dumfries: "they make suit for help, not having wherewith to live except the demesne of their house, which will find but for three and there are seven of them."[4] In the salmon netted from the Nith, the Teviot and the Dee, during times of peace, those friars and their brethren at Roxburgh and Kirkcudbright also procured a welcome addition to their fare, as well as a small addition to their exchequer from the sale of the surplus catch. At Roxburgh, the Grey Friar was ferryman, angler and flockmaster, and many gifts flowed into the coffers of the friary at Inverkeithing on account of its proximity to the landing-stage of St. Margaret's

[1] Dr. Robert Milne, Accounts of Prior David Cameron, and Appendix No. VII.

[2] *e.g.* sale of wheat, 7 bolls, 3 firlots, 2½ pecks, for £10. Two and a half pecks were allowed for the charity.

[3] *Exch. Rolls*, XV. 385. Six barrels of tallow sold to the King by the Observatines of Edinburgh for £6, 11s.

[4] *Supra*, p. 85.

ferry, then a fruitful source of income to the Abbots of Dunfermline.

When we turn to the skilled crafts, record evidence is less abundant, but still sufficient to show that the friars were workmen as well as evangelists, and that the lay brothers formed a not inconsiderable part of the friary Chapter. There was the soldier-friar who met his death when the Dundee Friary was burned in 1335, and the last Warden was skilled in the management of clocks. John the Carpenter earned the gratitude of his sovereign for his services as a military engineer during the Edwardian wars,[1] and within the few pages of the *Aberdeen Obituary* alone there are three friar carpenters, one glassworker, an itinerant scribe, and the unique example of the old custom illustrates that some of the friars continued to hire themselves out as servants. Among these, Friar John Thomson, by trade a carpenter and mason, claims special notice for his refusal to accept even food and drink in return for his services: "but within the community his food for the greater part was the leavings of the other friars, and in the common repast no one was more abstemious than he. In every good work he was specially vigilant, and slept but little."[2] Lastly, in the rôle of artists we have no certain knowledge of the Scottish Franciscans. The painter of Robert II. was a Mendicant Friar, Thomas Lorimer by name, the earliest "King's limner" in Scottish record. Under the designation of *frater pictor*, he received several payments from the Exchequer, and journeyed to Flanders in 1382 to make sundry purchases for the king.[3]

[1] *Supra*, pp. 35–36. Another remarkable example of a friar developing military engineering skill of a high order is that of Friar Andrew Lesuris or Lisouris, a Dominican lay brother of Cupar, Fife. He was the King's carpenter for some time after the year 1453, and numerous payments to him as *carpentario regis* appear in the *Exchequer Rolls*. He took a large part in the making and transport of military engines. In 1455–56 he received payments for transporting the "great bombard" (supposed to be "Mons Meg" in Edinburgh Castle) from Edinburgh to the siege of Thrieve Castle, and for bringing it back to Linlithgow. Further payments were made to him for supplying the stone bullets, etc., for this bombard, and he was also engaged in repairing the Royal Chapels at Stirling, Falkland, etc. "Mons" appears first under this name in 1489, when on its way to the siege of Dumbarton or of Duchal and Crookston. *Exch. Rolls*, V. 534, 535; VI. 200, 295, etc.; VII. 294, etc. *Accounts of L. H. Treas.*, I. ccxxii.

[2] *Supra*, p. 331.

[3] *Exchequer Rolls*, 1377, 1379, 1382.

CHAPTER XV

CONVENTS AND THEIR USES

In addition to the vow of poverty, St. Francis demanded yet another sacrifice of his followers—that they should cease to be influenced by locality and the ties of kinship. "Let the friars appropriate nothing to themselves, neither house nor place nor anything; but as pilgrims and strangers serve the Lord in poverty and humility."[1] This cognate precept of the Rule completed the distinction between the Franciscans and the Churchmen, and constituted a prudent safeguard to the profession of poverty, so long as the individual obeyed the injunction against fixity of residence. Physical comfort found no place in this ascetic creed. A simple cabin, mud hut, or other slight form of shelter, with a small chapel or oratory for the purposes of prayer, was the ideal Franciscan settlement. Even in these days, however, the desire for a permanent habitation was not altogether effaced by the ideal. It was one of the Saint's early griefs; and the testamentary prohibition against recourse to the Holy See, either by the friars themselves or through an intermediary, for permission to accept a church or place, clearly indicates that the arguments put forward by the Cardinal of Ostia on behalf of the friars of Bologna had not carried complete conviction to the mind of their leader.[2] Clearly he dreaded the influence which ecclesiastical tradition subsequently exercised upon the development of the Order; and the sincere Spiritual suffered scarcely less as he witnessed each successive relaxation of the Rule. Among many others, the revivalist Ubertino strove to obliterate "magnificence" from their buildings. It was not, he main-

[1] *Solet annuere*, cap. VI.
[2] *La Vie de St. François*, pp. 273–74; *Spec. Perf.*, cap. IV.

The Great Convent at Assisi—*il Sagro Convento*—with its Upper and Lower Churches, in the Crypt of which St. Francis is buried.

tained their founder's desire to attract vast crowds to the friary, oratory or church. Their "places" were to be situated outside the walls of the towns; so that the friars might come to the parish church, and there preach to the people with the good-will and consent of the Rector. The friary was to be solitary, removed from the commotion of everyday life, and suited to silent meditation.[1] It was at once the source and the nursery of spiritual enthusiasm. Many causes, however, militated against the continuance of this primitive simplicity. Beyond the walls of the town, the friary was often exposed to unnecessary danger, and papal license to remove within the town was frequently granted on account of the dangers of war.[2] The parish clergy, also, were often unwilling to open their churches to the friar preacher. Then, the introduction of learning, and the appointment of professors of theology, necessitated the use of permanent buildings suitable for study; while the erection of the magnificent church and convent at Assisi, and of many similar buildings in Italy and other parts of Europe, were concrete manifestations of the desire of the majority of the friars to assimilate their surroundings to those of the churchmen, if not even to model them upon that phase of Italian art with which their movement coincided. The combined effect of these influences found expression in 1250, when Innocent IV. replied, to the petition of the Order, that "it is meet to recognise your *habitacula* among the other congregations of the faithful, and that all your churches where convents exist be called conventual."[3] One result of this innovation was to encourage fixity of residence and the multiplication of definite spheres of action and influence. Entrants not unnaturally preferred to reside in a friary situated in the district associated with their home life; and consequently Johannes Mino, Minister General

[1] *Archiv für Litteratur*, III. 168; cf. the early Franciscan foundations in England, *M. F.*, I. xvii.; also *Chronica Fratris Jordani*, *A. F.*, I. 10. The Bishop and Canons of Wormatia gave the choir of one of their churches to the friars for preaching.

[2] *e.g. Exhibita nobis*, 21st May 1346.

[3] *Cum tamquam veri*, 5th April 1250. Under the Observatine statutes of 1451, houses capable of accommodating twelve friars were to be called convents, and their superiors Wardens; other friaries were merely to have Vicars. *M. F.*, II. 106.

1296–1302, endeavoured to pass a statute to the effect that not more than one-third of the available accommodation in any friary should be occupied by friars of the locality—*nativi de terris*.[1] The measure was disapproved of by the Chapter General, and the agitation for stricter discipline in this respect formed yet another count in Friar Ubertino's indictment—"they appropriated places, and, regarding them as their monastery, were unwilling to dwell elsewhere; permanency, therefore, became responsible for the inevitable provision for maintenance and the resulting deviations from the Rule."[2] Clement V. confined himself to a declaration that the Order must have humble and modest buildings, such as do not belie the great poverty which it professed,[3] without insisting upon any reform in the matter of frequent transference to other friaries, which was provided for according to the discretion of the Superiors.

While the Spirituals thus deplored the decline of the migratory habit on the part of the individual friar, the central authorities of the Order and of the Church were indirectly exercising their influence in another direction—against the indiscriminate acceptance and abandonment of "places." The Chapter General of 1286 checked the uncontrolled freedom, which had previously existed,[4] by a provision that the consent of the Minister General was essential to the acceptance of a new friary, and that no rebuilding might be undertaken without previous reference to the Provincial Chapter.[5] Papal license to the acceptance of friaries had occasionally been granted;[6] but Boniface VIII., under the *Cum ex eo*, expressly forbade the acceptance or disposal of any "place," by way of sale or exchange, unless by special

[1] *Archiv für Litteratur*, III. 122. [2] *Ibid.* pp. 69, 106, 111.

[3] *Exivi*, cap. XV.

[4] The *Si Ordinis*, 1st Feb. 1230, does not appear to warrant Sbaralea's contention that the consent of the Provincial Minister was required. This Bull was addressed to the Churchmen: "*Quapropter Universitatem vestram monemus . . . quatenus si aliquis fidelium vel iidem ad opus ipsorum construere voluerint oratoria in vestris parochiis . . . favorem eis super hoc benevolum prebeatis, libere permittentes, quibus permissum est a Provinciali Ministro, viros idoneos in vestris parochiis proponere verbum Dei.*" Cf. *infra*, II. p. 451.

[5] *Archiv für Litteratur*, II. 86.

[6] *Attendentes dilecti*, 6th October 1234.

license obtained from the Curia.[1] Thus it is that the friaries in Lanark and Inverkeithing were the first Scottish houses to obtain a Bull of Erection; while the successive Observatine foundations were licensed at, or shortly after, their erection.

The style of architecture generally adopted in Franciscan and Dominican churches differed from that of most of the contemporary churches. The distinguishing features of their simplicity consisted in the enlargement of the nave, flanked by aisles and altars, to enable the friar preacher to be heard in every part of the building. "They were meant," says Ruskin, "for use, not for show, nor self-glorification, nor town-glorification. They wanted places for preaching, prayer, sacrifice, burial; and had no intention of showing how high they could build towers or how widely they could arch vaults. Strong walls and the roof of a barn—these your Franciscan asks of his Arnolfo."[2] A beautiful example of this style is the Franciscan Church of Santa Croce at Florence, with its frescoes by Giotto, Taddeo and Agnolo Gaddi, and Giovanni da Milano, and its sculptures of Della Robbia and Benedetto de Maiano—"schemes of practical divinity" as Ruskin terms these creations of art. This form of construction also permitted of their pictures—for they were great lovers of art—being exhibited to the greatest advantage. Under the constitutions of Narbonne, directed towards securing simplicity in buildings, the pictures were restricted in subject-matter to the Virgin, St. John, St. Francis, and St. Anthony of Padua; and the Visitors were directed to obliterate or remove any which did not fall within that enumeration.[3] With the same object, the erection of spires and steeples was forbidden, so that only permission to erect a dwarf belfry was granted in the papal sanction to any foundation. Franciscan architecture in Scotland, as represented by its two surviving monuments in Aberdeen[4] and Elgin, fully conformed to these constitutions, and the restatement of them in the *Exivi*. Their charm rested entirely upon the simplicity and purity of design,

[1] *Supra*, p. 57. [2] *Mornings in Florence*, p. 14; ed. 1903.

[3] *Bonaventurae Op.*, VIII. 452–53. The use of gold service ornaments and excessive adornment by pictures, sculpture, painted windows, pillars, lofty or wide aisles, was also forbidden.

[4] The church was recently pulled down.

enhanced by the great window of "cross basket work," as it has been accurately described by Professor Cooper; but of their pictures or stained glass not a trace now remains. The erroneous identification of the friary church with the Lamp of Lothian, and John Major's ill-founded sneer based upon it, have already been referred to;[1] and it is clear that neither statement merits more serious belief than the fictitious magnificence with which Father Cornelius clothed the simple buildings in Edinburgh, and which the chronicler was loath to abandon in his history of the Province. Buildings of stone did not accord with the idealism of the primitive Franciscan, but they were a necessity in our rude climate; while the mental attitude of the Observatine of later days, and the doubts which harassed his conscience in this respect, are well defined in the appeal to Leo X. for direction as to how they should act in regard to gifts of "magnificent" convents, rich vestments and church ornaments, that appeared inconsistent with the vow of holy poverty.[2] His Holiness, after renewing the declarations of his predecessors, that all such gifts belonged in property to the Holy See, replied that neither the dimensions of the houses nor the multiplicity of the ornaments added to the bodily comforts of the friars, who were merely the custodiers. Therefore, as it is fitting to honour the Divine Majesty with fairer ornaments and to beautify His worship, "you may use and enjoy the same freely and lawfully in the manner in which Pope Julius II., our predecessor of happy memory, is said to have granted to the said Order and Family at the instance of our dearest daughter in Christ, the present Queen of England."[3] This was by no means the first occasion on which the Holy See had exercised a restraining influence upon literal observance, when carried beyond the limits of discretion. Friar John of the friary at Scases—in violation of the Rule—took possession of his share in the family succession, and devoted the proceeds to the purchase of vestments, candelabra and other precious orna-

[1] *Supra*, p. 169.

[2] *Exivi*, cap. XV. Stringent prohibition against superfluity or excessive value.

[3] *Merentur vestrae*, 3rd January 1514–15. Catherine of Aragon, who was a member of the Order of Penitents.

ments for his convent. Although they had accepted these gifts during his lifetime, his brother friars decided that he enjoyed the reputation of *proprietarius* at his death, and carried their resentment so far as to bury him "in a cattle shed in an adjoining garden under the dung of the brute animals, miserably, as an infidel and one cut off from the Church of God and excluded from all participation in the Christian religion." This unbrotherly treatment roused the indignation of the inmates of a neighbouring friary; and, in reply to their appeal, Martin V. directed that the body should be exhumed and receive Christian burial.[1]

The fragmentary evidence concerning the church ornaments and vestments of the Scottish friaries does not seem to indicate extravagance. As previously mentioned, in 1480 those of the Dundee friary, including books, were accepted as security for the loan of £100 Scots; and Elizabeth Vindegatis, a "mother in religion," contributed 3000 merks Scots for the use of all the Observatine convents, "in chalices, ornaments, candlesticks, images, bells, and in divers other necessary things."[2] The other donations noted in the Obituary for the Aberdeen friary were three silver chalices, a silver spoon for the holy oil, a chasuble and vestments for each altar; while the furnishings provided for the Stirling friary by James IV. were neither valuable nor numerous. The images brought from abroad cost £35, and in the records of the Haddington friary mention is made of the fertory or movable shrine kept within the choir. At the Reformation, these ornaments were either destroyed or stolen, or fell into the hands of the burgh authorities, only to disappear in a short time. The fate of those belonging to the Black Friars of Inverness doubtless explains the disappearance of many others —"The Freyeris Ornamentis and Chalisses" were deposited for safety with the Provost, George Cuthbert, in the name of the town. The Provost died in the following year, and a demand for their return was made both on his widow and the tutors for his son. Both parties denied possession,[3] and the articles were never recovered. But, although the friaries and

[1] *Justis et honestis*, 25th March 1427.
[2] *Aberd. Ob. Cal.*, *supra*, p. 341.
[3] *MS. Burgh Records*, *sub anno* 1561.

their churches were the humblest and least pretentious in style of all the religious houses in the country, they were universally regarded as the holiest, and, therefore, the places most fit for the purposes of prayer and religious consolation. The rich as well as the poor flocked thither, and were made welcome by the friars. Dunbar tells us that—

> "Among thir freiris, within ane cloister,
> I enterit in ane oratorie,
> And kneling down with ane Pater Noster,
> Befoir the michti King of Glorye,
> Having His passoun in memorye,
> Syne to His Mother I did inclyne,
> Hir halsing with ane gaude-flore;
> And sudantlie I slepit syne."[1]

In a cognate aspect, there is nothing more remarkable in the history of Franciscanism in this country than the influence which the friars exercised upon the commercial life of the community. Religion was brought into immediate contact with business affairs; so that symbolism, which finds so small a place in our Presbyterian creed, became a powerful incentive to commercial probity. To that end, the citizen was welcomed to the friary, where the sanctity of environment inevitably impressed itself on the minds of the parties, and surrounded their contracts with an authority which few were then bold enough to ignore. It was the general practice to hold business meetings, and to arrange and execute contracts, deeds of agreement, arbitrations, conveyances of land, and writs of every description within the friary, in the church,—the holiest of all places for this purpose,—the chapter house, the cloister, the Warden's chamber, the cemetery, and even the street in front of the "Place." The following are a few illustrative examples, with the general details omitted, taken mainly from the *MS. Notarial Protocol Books* preserved in the General Register House:—

Instrument drawn up in the *Church of the Friars Minor* of the Order of St. Francis in Glasgow, dated 21st November 1516.[2]

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[1] Dunbar's *Poems* (Scott. Text Soc.), II. p. 259.
[2] *Prot. Books of Gavin Ross of Ayr*, vol. I.

Submission of parties to a Decreet Arbitral drawn up in the *Place* of the Friars Minor of Ayr, dated 11th December 1528.[1]

Arbiters appointed to meet in the *Place* of the Friars Minor of Aberdeen, dated 3rd February 1527.[2]

Arbiters appointed by the Magistrates of Aberdeen, anent "strubbling" the town and blood-drawing, are directed to meet in the *Church of the friary*, dated 21st March 1546.[3]

Procuratory of Resignation made in the *Chapter House* of the Friars Minor of Aberdeen, dated 20th February 1552.[4]

Instrument of Resignation done in the *public street* of Aberdeen at the *Place* of the Friars Minor, dated 19th April 1551.[5]

Agreement made in the *cloister* of the Friars Minor of Aberdeen, dated 24th June 1552.[6]

Instrument of Resignation in the hands of James, Earl of Arran, Governor of Scotland, done in the *Cemetery* of the Friars Minor of Stirling, dated 26th June 1545.[7]

Instrument "done in the town of Dumfries in the *Chamber of the Warden* of the Friars Minor," July 1516.[8]

Done in judgment in the *Friars Church* of Dumfries, 4th May 1459.[9]

The friars themselves often acted in the character of witnesses to the execution of the deeds, and as such were occasionally cited to give evidence in a court of law :—

Bond of Manrent, dated 1st April 1503, and witnessed, among others, by "Frere John Yair," Provincial Minister of the Friars Minor of Scotland (Conventuals).[10]

Action against James Kennedy of Row, in which Friar John M'Haig is ordered to be summoned and produced as witness. For his protection, letters are to be directed to the Vicar of the Grey Friars to send him to Stirling to give evidence in the case. Dated 7th March 1502.[11]

It was also the practice in disputed transactions to lodge the conveyances, bonds or progresses of titles, as well as to consign the sums of money, in the hands of the friars; and, if one of the parties refused to carry out the contract, the

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[1] *Prot. Books of Gavin Ross of Ayr*, vol. II.
[2] *Prot. Books of Sir John Christisone*, vol. II.
[3] *Supra*, p. 322.
[4] *Prot. Books of Robert Lumisdane*, vol. VI.
[5] *Ibid.*
[6] *Ibid.*
[7] *Prot. Books of James Colvill*, vol. XI.
[8] *Hist. MSS. Com.*, 15th Rep., App. pt. VIII. 61 (*Buccleuch MSS.*).
[9] *Ibid.* p. 35.
[10] *MS. Acta Dom. Concil.*, G. R. H., XVI. f. 211.
[11] *Ibid.* XIII. f. 94.

deeds or money were simply placed on the high altar of a friary church, and left there at his risk.

Instrument to the effect that Thomas Kennedy and Hew Campbell promise faithfully to place certain letters of reversion belonging to the heirs of the late Sibilla Cathcart and to Margaret Cathcart in the *Place* of the Friars Minor of Ayr. Dated 1st February 1527.[1]

Instrument narrating that Margaret Crawfurd or Hebburn and Janet Crawfurd, widow of the late William Cathcart of Drumsmuddan, delivered the sum of twenty merks in a closed purse to Friar Arthur Park, Warden of the Friars Minor of Ayr, in sure custody for the use of the two children of the said William Cathcart, *according to a Decreet of Court.* This sum the Warden received in keeping, and promised to deliver to the said parties conjointly, and not otherwise, or to others having mandate, right and interest, on requisition of the same conjointly, all in terms of a paper schedule attached to the purse. Dated 26th June 1529.[2]

Action by Philip Nisbet of that Ilk against Alexander McClelane of Gilestoune, son and heir of the deceased Donald McClelane, and others, for failing or postponing to make renunciation of the lands of Carlestone, *lawfully redeemed at the high altar* in the Freir Kirk of Kirkcudbright. Dated 19th January 1498–99.[3]

In Letters of Quitclaim by Edward of Crawford, it is provided that, "if Crawford or his heirs should do or suffer to be done anything contrary to this Obligation," the penalty to be paid to Kirkpatrick was "£200 Scots in the *Friars of Dumfries on the high altar.*" Sealed at Dumfries, 21st November 1433.[4]

"In presens of the Lordis of Counsale it is apunctit and accordit betuix William Colvile, procurator and cessionar for Margaret Waus, lady of Corswell, on the ta parte, and Robert Charteris of Amysfeld, on the tother parte, in this forme: that is to say, that the said Williame and Robert sal conveyne and met on the morne efter Sanct Androis day next to cum efter the daite of this writt in the *Frere Kirk of Drumfrese*, to mak compt, raknyng, and payment of ale sowmes of money, batht for the tochire of James Campbell, and for the males of the lands of Dalruskane, of all termes bygain pertenyng to the said Margaret by resone of terse, and sa fere as sal be fund avand of the saide tochire sene the first contract, and the third of the haile males forsaid sene the first tym."[5]

Even in the matter of legal citations, the friars permitted the utmost freedom, as witness a case where the procurator for the laird of Richartoun, after warning the Lady Pumfras-

[1] *Prot. Books of Gavin Ross*, vol. II. [2] *Ibid.*

[3] *MS. Acta Dom. Concil.*, VIII. f. 150.

[4] *Hist. MSS. Com.*, 15th Rep. (Buccleuch, 1897).

[5] *Acta Dom. Concil.* (Print), 1478–95, p. 93. A widow's right of terce is a third of the rents or maills of all heritable property in which her husband was infeft at the date of his death.

toun and her son at their lodging, made intimation to the said Lady "personally apprehendit"—*i.e.* served personally on her—"in the Kirk of the Gray Freirs conform to the letters";[1] and in the administration of justice it is interesting to note that, when the Queen Dowager, Mary of Lorraine, was engaged in judicial reforms, she requested that "*certain Minors and two men of the long robe*" should be sent from France to assist her.[2] Reference has been made to the right of sanctuary afforded by the Aberdeen friary to the aggressors in the Forbes raid; and the assiduous efforts of the friars in allaying the vengeful vendetta caused by these bloody quarrels is aptly illustrated by a case which occurred in Aberdeen in 1553, and resulted in the death of Gilbert Anderson at the hands of Alexander Bissaitt. The nearest kinsmen of both parties—Alexander Leslye of Warderis, uncle of the former, and George Bissaitt, burgess of Aberdeen, as representing the latter—held a conference within the friary on 7th October, when, "for the whole assythement and satisfaction of the slaughter," it was agreed that a marriage between certain members of the two families should be arranged. Bissaitt was to select one of his sons, whom he was to appoint his universal heir—"the quhilkis sone sall marye ane dochter of Andro Menzes, Andro Leslye, or the lard Cowbardy, as best sall ples the said George, at his vill, frelye without ony tochir, the quhilkis sone the said George sall name and tak his electioun of ane of the thre vemen." Alexander Bissaitt, the guilty party, was also "in all haste" to remove himself furth of Scotland, and to remain absent during the will of the said Alexander Leslye; and for his protection, the latter was to obtain and deliver to him a sufficient "letter of slains."[3]

Clearly the friars grudged neither trouble nor labour in their efforts to maintain the integrity of the people in their dealings with one another, and one can only wonder that this aspect of their work—a matter of daily occurrence—should

[1] *Prot. Books of G. Grote*, vol. XV. G. R. H.

[2] *MS. Balcarres Papers*, III. f. 26, Montmorency to the Queen Dowager, October 1554. Adv. Lib., Edin.

[3] *MS. Prot. Books, Robert Lumisdane*, p. 32, G. R. H.

have dropped completely out of memory. They possessed the full confidence of rich and poor alike; but Father Hay somewhat exaggerates when he assures us that, "since kings themselves, and princes, and prelates of the realm, love the life of the friars, they all used to resort to them, as to divine oracles, to take counsel with them. No public business of the realm was dealt with except on the advice of the friars. No death sentence, even upon the highest of the nobility, though passed by the king in council, was delivered for execution until it had first been approved of by the advice and knowledge of these proven fathers. For this reason, if there were any lawsuits between the nobles to be settled, if there was a marriage to be arranged, the nobles employed them as mediators, with the result that but few quarrels, and no divorces, were to be met with in the families of the nobility."[1]

[1] *Ob. Chron.*

The Cordelière upholding the Lily of France and Ermine of Brittany. *Château de Blois.*

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Vestra semper . .	1 August 1253.	I. 670, No. 494.		
Virtute conspicuos sacri	2 August 1258.	II. 298, No. 436.	...	*Infra*, II. p. 441.
	21 July 1265.	III. 19, No. 25.		
	20 Nov. 1285.	III. 551, No. 20.		
	11 Nov. 1295.	IV. 370, No. 37.		
Voluntariae paupertati .	5 Nov. 1274.	III. 222, No. 58.		

The letter "Tau," which St. Francis, from its resemblance to the Cross, loved to append to his letters.

Printed by Morrison & Gibb Limited, *Edinburgh*

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Bryce, William Moir
TITLE
The Scottish grey friars
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